

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 23. BOARD OF PHARMACY

[R07-46]

#### PREAMBLE

1. **Sections Affected**  
R4-23-610
- Rulemaking Action**  
Amend
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**  
Authorizing statute: A.R.S. § 32-1904(A)(1)  
Implementing statute: A.R.S. § 32-1901(62)
3. **A list of all previous notices appearing in the *Register* addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 208, January 26, 2007
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
4425 W. Olive Ave., Ste. 140  
Glendale, AZ 85302  
Telephone: (623) 463-2727, ext. 131  
Fax: (623) 934-0583  
E-mail: rxcop@cox.net
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Board's approved new rules for automated storage and distribution systems will go into effect on March 10, 2007. The Board staff has discovered that language in R4-23-610(G) that prohibits a prescription medication from being left outside the prescription area or picked up by a patient when the pharmacist is not present is in direct conflict with language in R4-23-614(B)(2)(c) that allows the use of an automated storage and distribution system within 20 feet of the prescription area for the purpose of patients picking up prescriptions that do not require pharmacist consultation without a pharmacist being present. The Board intends to correct this conflict by adding language to R4-23-610(G)(2) to exempt the use of an automated storage and distribution system that complies with R4-23-614. R4-23-610(A)(2)(d) requires a pharmacy to assemble the pharmacy's policies and procedures as a "written manual or by another method approved by the Board of its designee." To be consistent with recently approved new rules requiring pharmacy policies and procedures, the Board is amending R4-23-610(A)(2)(d) to require that all policies and procedures be assembled "as a written or electronic manual." R4-23-610(A)(2)(e) requires that the policies and procedures be available for inspection "by the Board of its designee." To be consistent with recently approved new rules requiring pharmacy policies and procedures, the Board is amending R4-23-610(A)(2)(e) to require that all policies and procedures be available for inspection "by the Board or its staff." The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.  
The Board believes that approval of this rule benefits the public and the pharmacy community by clearly establishing the standards for the personnel and security procedures of a pharmacy.
6. **A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely**

Notices of Proposed Rulemaking

**on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The agency did not review or rely on any study relevant to the rule.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The proposed rule will impact the Board, pharmacists, and the public. The proposed rules' impact on the Board will be the usual rulemaking-related costs which are minimal. The Board estimates the proposed rule will have no economic impact on pharmacies or pharmacists, because the rule change is simply removing a conflict with language in another Board rule, specifically, R4-23-614(B)(2)(c). R4-23-614(B)(2)(c) allows the use of an automated storage and distribution system within 20 feet of the prescription area and directly conflicts with R4-23-610(G). R4-23-614(B)(2)(c) allows a pharmacy to place an automated storage and distribution system outside the pharmacy area if the system is within 20 feet of the pharmacy and allows that system be used to allow patients to pick up prescriptions during pharmacy operating hours or after hours when a pharmacist is not present. R4-23-610(G) requires a pharmacist to "ensure that prescription medication is not left outside the prescription area or picked up by the patient when the pharmacist is not present." The rule change is necessary to correct the conflict between the two rules, and the change will have no economic impact on pharmacies.

The changes to R4-23-610(A)(2)(d) and (e) are needed to improve clarity and consistency of the rule and have no economic impact on pharmacies. Removing the language in R4-23-610(A)(2)(d) that requires Board approval of policies and procedures assembled "by another method" actually benefits pharmacies by removing the question of whether or not a particular method of assembling policies and procedures is approved and the Board by removing the necessity and workload involved in approving a particular method of assembling policies and procedures. The proposed rule has no economic impact on the public.

The public, Board, and pharmacists benefit from rules that are clear, concise, and understandable. The proposed rule benefits the public and the pharmacy community by clearly establishing the standards for the personnel and security procedures of a pharmacy.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
4425 W. Olive Ave., Ste. 140  
Glendale, AZ 85302  
Telephone: (623) 463-2727, ext. 131  
Fax: (623) 934-0583  
E-mail: rxcop@cox.net

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, April 9, 2007. An oral proceeding is scheduled for:

Date: April 9, 2007  
Time: 10:00 a.m.  
Location: 4425 W. Olive Ave., Ste. 140  
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed above.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rule:**

None

**13. The full text of the rule follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section

R4-23-610. Community Pharmacy Personnel and Security Procedures

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

**R4-23-610. Community Pharmacy Personnel and Security Procedures**

- A.** Every pharmacy shall have a pharmacist designated as the “pharmacist-in-charge.”
1. The pharmacist-in-charge shall ensure the communication and compliance of Board directives to the management, other pharmacists, interns, and technicians of the pharmacy.
  2. The pharmacist-in-charge shall:
    - a. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are prepared, implemented, and complied with;
    - b. Review biennially and, if necessary, revise all pharmacy policies and procedures required under 4 A.A.C. 23;
    - c. Document the review required under subsection (A)(2)(b);
    - d. Ensure that all pharmacy policies and procedures required under 4 A.A.C. 23 are assembled as a written or electronic manual ~~or by another method approved by the Board or its designee~~; and
    - e. Make all pharmacy policies and procedures required under 4 A.A.C. 23 available in the pharmacy for employee reference and inspection by the Board or its ~~designee staff~~.
- B.** Personnel permitted in the pharmacy area of a community pharmacy include pharmacists, graduate interns, pharmacy interns, compliance officers, drug inspectors, peace officers acting in their official capacity, other persons authorized by law, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel. Pharmacy interns, graduate interns, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel shall be permitted in the pharmacy area only when a pharmacist is on duty, except in an extreme emergency as defined in R4-23-110.
1. The pharmacist-in-charge shall comply with the minimum area requirements as described in R4-23-609 for a community pharmacy and for compounding and dispensing counter area.
  2. A pharmacist employed by a pharmacy shall ensure that the pharmacy is physically secure while the pharmacist is on duty.
- C.** In a community pharmacy, a pharmacist shall ensure that the pharmacy area, and any additional storage area for drugs that is restricted to access only by a pharmacist is locked when a pharmacist is not present, except in an extreme emergency.
- D.** A pharmacist is the only person permitted by the Board to unlock the pharmacy area or any additional storage area for drugs restricted to access only by a pharmacist, except in an extreme emergency.
- E.** A pharmacy permittee or pharmacist-in-charge shall ensure that any prescription-only drugs and controlled substances received in an area outside the pharmacy area are immediately transferred unopened to the pharmacy area. The pharmacist-in-charge shall ensure that any prescription-only drug and controlled substance shipments are opened and marked by pharmacy personnel in the pharmacy area under the supervision of a pharmacist, graduate intern, or pharmacy intern.
- F.** A pharmacy permittee or pharmacist-in-charge may provide a small opening or slot through which a written prescription order or prescription medication container to be refilled may be left in the prescription area when the pharmacist is not present.
- G.** A pharmacist shall ensure that prescription medication is not left outside the prescription area or picked up by the patient when the pharmacist is not present by either:
1. Delivering the prescription medication to the patient, or
  2. Securing the prescription medication inside the locked pharmacy, except when using an automated storage and distribution system that complies with the requirements of R4-23-614.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 1. RADIATION REGULATORY AGENCY**

[R07-48]

**PREAMBLE**

<b><u>1. Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
R12-1-101	Amend
R12-1-102	Amend
R12-1-103	Amend
R12-1-201	Amend
R12-1-203	Amend
R12-1-205	Amend
R12-1-206	Amend
R12-1-207	Amend
Appendix A	Amend
R12-1-306	Amend
R12-1-311	Amend
R12-1-324	Amend
R12-1-403	Amend
R12-1-419	Amend
R12-1-422	Amend
R12-1-431	Amend
R12-1-432	Amend
R12-1-434	Amend
R12-1-435	Amend
R12-1-438	Amend
R12-1-440	Amend
R12-1-443	Amend
R12-1-446	Amend
R12-1-447	Amend
R12-1-448	Amend
R12-1-449	Amend
R12-1-454	New Section
R12-1-602	Amend
R12-1-603	Amend
R12-1-604	Amend
R12-1-605	Amend
R12-1-606	Amend
R12-1-607	Amend
R12-1-608	Amend
R12-1-610	Amend
R12-1-611	Amend
R12-1-612	Amend
R12-1-614	Amend
R12-1-902	Amend
R12-1-904	Amend
R12-1-905	Amend
R12-1-907	Amend
R12-1-910	Amend
R12-1-911	Amend
R12-1-913	Amend
Appendix A	Amend
R12-1-1142	Amend
R12-1-1215	Amend
R12-1-1401	Amend
R12-1-1502	Amend
R12-1-1503	New Section
R12-1-1504	Amend

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R12-1-1505	Amend
R12-1-1506	Amend
R12-1-1507	Amend
R12-1-1508	Amend
R12-1-1510	New Section
R12-1-1511	New Section
R12-1-1512	New Section
R12-1-1513	New Section
R12-1-1514	New Section
R12-1-1515	New Section
R12-1-1713	Amend

**2. The specific authority for the Rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 30-654(B)

Implementing statute: A.R.S. §§ 30-651, 30-657, 30-671(B), 30-672, 30-673, 30-681, 30-687, 30-688, and 30-689

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 794, March 9, 2007 (*in this issue*)

**4. The name and address of Agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Daniel H. Kuhl, State Health Physicist II

Address: Arizona Radiation Regulatory Agency  
4814 S. 40th St.  
Phoenix, AZ 85040

Telephone: (602) 255-4845, ext. 233

Fax: (602) 437-0705

E-mail: dkuhl@azrra.gov

**5. An explanation of the rules, including the Agency's reasons for initiating the rule:**

There are four main areas of change included in this rulemaking. The first contains the changes resulting from five-year reviews conducted on Articles 1, 4, 6, 9, 12, and 15. The main purpose of the changes associated with these reviews is to ensure that the affected rules stay abreast of current national radiation safety standards.

The second group of changes include those made at the request of Agency staff. These changes arise from reviews that discover discrepancies or changes needed as a result of a rulemaking oversight, or because earlier rulemaking has resulted in incorrect language or an incorrect reference in the rule under going the five-year review.

The third group consists of changes recommended by the staff that will bring the x-ray rules in Article 6 up to current standards. Included are minor changes that are needed after comparing the rules in Article 6 to similar rules published by the Conference of Radiation Control Program Directors (CRCPD).

The fourth group of changes are requested revisions placed on the Agency by the Nuclear Regulatory Commission (NRC). The Agency is required to make these changes as a result of the Agreement signed with the NRC in January 1967. This agreement requires the Agency to incorporate in Arizona rule certain NRC prescribed requirements. Included in this rule package is the NRC requirement for specific licensees, having quantities of specified radioactive material exceeding the quantities requiring increased controls, to communicate their activities involving the affected radioactive material to the NRC as part of the new National Source Tracking System.

A second group of NRC required-changes effects those licensees that transport radioactive material regulated under Article 15. The NRC in conjunction with Department of Transportation has revised the standards for safe transport of radioactive material. As stated earlier all Agreement states are required to incorporate these NRC changes.

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

There should be minimal increase in costs associated with the administrative changes presented in the affected rules. In all cases the regulated community is already familiar with the regulation of medical x-ray and radioactive material transportation. The regulated community is also very familiar with potential for change resulting from the very unsta-

**Notices of Proposed Rulemaking**

ble world political environment resulting in the source tracking system instituted as a result of the NRC Agreement. This new requirement is administrative in nature and should result in minimal cost to the affected licensees.

**9. The name and address of Agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Daniel H. Kuhl, State Health Physicist II  
 Address: Arizona Radiation Regulatory Agency  
 4814 S. 40th St.  
 Phoenix, AZ 85040  
 Telephone: (602) 255-4845, ext. 233  
 Fax: (602) 437-0705  
 E-mail: dkuhl@azrra.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

An oral proceeding at the Agency is scheduled for Tuesday, May 28, 2007, at 10:00 a.m. The directions to the Agency may be obtained by calling (602) 255-4845. A person may submit written comments concerning the proposed rules by submitting them to the Agency no later than 5:00 p.m., on May 28, 2007, to the following person:

Name: Aubrey V. Godwin, Director  
 Address: Arizona Radiation Regulatory Agency  
 4814 S. 40th St.  
 Phoenix, AZ 85040  
 Telephone: (602) 255-4845  
 Fax: (602) 437-0705

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

<b><u>Rule</u></b>	<b><u>Incorporation</u></b>
R12-1-101	NRC Agreement
R12-1-102	
“A <sub>2</sub> ”	10 CFR 71.137
“Certifiable cabinet x-ray system”	21 CFR 1020.40
“Certified cabinet x-ray system”	21 CFR 1010.2
“Generally applicable environmental radiation Standard”	40 CFR 190 and 191
“Major processor”	10 CFR 71.4
“Nuclear waste”	49 CFR 173.403
“Regulations of the U.S. Department of Transportation”	49 CFR 100 through 199
“Special form radioactive material”	10 CFR 71
R12-1-103	49 CFR 107.109, 107.111, 107.113, 171.2, 171.3, 172.200, 173.1, 173.3, 173.4, 173.401, 175.3, 175.5, 175.10, 176.3, 176.5, 176.11, 176.24, 176.27, and 177.801 39 CFR 111.1
R12-1-206(C)	21 CFR 1020.30(d)
R12-1-306(B)(1)	10 CFR 31(b), (c), and (d)
R12-1-311(N)(1)	10 CFR 32.201
R12-1-403	
“Nationally tracked source”	10 CFR 20, Appendix E

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R12-1-432(4)	49 CFR 173.403, 173.421 through 173.424 49 CFR 172.436 through 172.440
R12-1-454(A)	10 CFR 20.2207(a) through (e) 10 CFR 20.2207(f)
R12-1-454(B)	10 CFR 20.2207(g)
R12-1-454(C)	10 CFR 20.2207(f) and (h)(1) through (2)
R12-1-603(C)(2)	NCRP Report 147 “Structural Shielding Design for Medical X-ray Imaging Facilities”
R12-1-614(A)(5)	AAPM Report 29, Table 3-3
R12-1-614(A)(5)	“Mammography Quality Control” by the American College of Radiology
R12-1-614(B)(2)	21 CFR 900.12(d)(1); (e)(2)(i), (ii), and (iii); (e)(3); (e)(4); (e)(5)(i), (ii), (iii)(A), (iv), (v), (vi), and (vii)(B) and (C), (viii), (ix), (x); (e)(8)(ii); (e)(9)(ii); and (e)(10)
R12-1-614(C)(1)(a)	21 CFR 900.12(a)(1)(i) and (ii)(A) and (B)
R12-1-614(C)(1)(b)	21 CFR 900.12(a)(2)(i)(B), (ii), and (iii)
R12-1-614(C)(1)(c)	21 CFR 900.12(a)(3)(i) and (iii) 21 CFR 900.12(a)(4)
R12-1-904(G)	ISCRT Report “Radiation Oncology in Integrated Cancer Management”
R12-1-1503	10 CFR 71.5
R12-1-1504(A)(2)	49 CFR 171 through 180
R12-1-1505(B)	49 CFR 177.848
R12-1-1506(1)	49 CFR 171 through 180
R12-1-1507(A)	10 CFR 71, Subpart H
R12-1-1508(B)	49 CFR 172.202 and 172.203(d)
R12-1-1510(B)(1)(a)	10 CFR 71.85(c)
R12-1-1510(B)(1)(b)	49 CFR 173.403
R12-1-1510(B)(2)(a)	10 CFR 71.85(c)
R12-1-1510(B)(2)(b)	49 CFR 173.403
R12-1-1510(B)(3)(a)	10 CFR 71.71 and 71.73
R12-1-1510(B)(3)(b)	10 CFR 71.71 and 71.73
R12-1-1510(B)(5)	10 CFR 71
R12-1-1510(C)	49 CFR 173 and 178
R12-1-1510(C)(2)(b)	10 CFR 71 Subparts A, G, and H
R12-1-1510 (C)(3)	49 CFR 173.403
R12-1-1510(D)(1)	49 CFR 171.12
R12-1-1510(D)(3)(b)(ii)	10 CFR 71 Subparts A, G, and H
R12-1-1511(B)	10 CFR 73.24
R12-1-1511(C)	49 CFR 175.714
R12-11512	10 CFR 71.97
R12-1-1515	10 CFR 71.14

**13. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 1. RADIATION REGULATORY AGENCY**

**ARTICLE 1. GENERAL PROVISIONS**

Section	
R12-1-101.	Scope
R12-1-102.	Definitions
R12-1-103.	Exemptions

**ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES**

Section	
R12-1-201.	Exemptions
R12-1-203.	Application for Registration of Servicing and Installation
R12-1-205.	Expiration of Notice of Registration or Certification
R12-1-206.	Assembly, Installation, Removal from Service, and Transfer
R12-1-207.	Reciprocal Recognition of Out-of-state Radiation Machines
Appendix A.	Application Information

**ARTICLE 3. RADIOACTIVE MATERIAL LICENSING**

Section	
R12-1-306.	General License – Radioactive Material Other Than Source Material
R12-1-311.	Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material
R12-1-324.	Public Notification and Public Participation

**ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION**

Section	
R12-1-403.	Definitions
R12-1-419.	Conditions Requiring Individual Monitoring of External and Internal Occupational Dose
R12-1-422.	Control of Access to Irradiators (Very-high Radiation Areas)
R12-1-431.	Labeling Containers and Radiation Machines
R12-1-432.	Labeling Exemptions
R12-1-434.	General Requirements for Waste Disposal
R12-1-435.	Method for Obtaining Approval of Proposed Disposal Procedures
R12-1-438.	Disposal of Specific Wastes
R12-1-440.	Compliance with Environmental and Health Protection Regulations
R12-1-443.	Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation
R12-1-446.	Notifications and Reports to Individuals
R12-1-447.	Vacating Premises
R12-1-448.	Additional Reporting
R12-1-449.	Survey Instruments and Pocket Dosimeters
<u>R12-1-454.</u>	<u>Nationally Tracked Sources</u>

**ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS**

Section	
R12-1-602.	Definitions
R12-1-603.	Operational Standards, Shielding, and Darkroom Requirements
R12-1-604.	General Procedures
R12-1-605.	X-ray Machine Standards
R12-1-606.	Fluoroscopic and Fluoroscopic Treatment Simulator Systems
R12-1-607.	Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Fluoroscopic and Dental Intraoral Radiographic Systems
R12-1-608.	Mobile Diagnostic Radiographic <u>and Fluoroscopic</u> Systems, Except Dental Intraoral Radiographic Systems
R12-1-610.	Dental Intraoral Radiographic Systems
R12-1-611.	Therapeutic X-ray Systems of Less Than 1 MeV
R12-1-612.	Computerized Tomographic Systems
R12-1-614.	Mammography

**ARTICLE 9. PARTICLE ACCELERATORS**



Section

- R12-1-902. Definitions
- R12-1-904. Registration of Particle Accelerators Used in the Practice of Medicine
- R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks
- R12-1-907. Shielding and Safety Design
- R12-1-910. Operating Procedures
- R12-1-911. Radiation Surveys
- R12-1-913. Misadministration
- Appendix A. Quality Control Program

**ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT INCLUDING ANALYTICAL X-RAY SYSTEMS**

Section

- R12-1-1142. Baggage and Package Inspection Systems

**ARTICLE 12. ADMINISTRATIVE PROVISIONS**

Section

- R12-1-1215. License and Registration Divisions

**ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION**

Section

- R12-1-1401. Registration of Nonionizing Radiation Sources and Service Providers

**ARTICLE 15. TRANSPORTATION**

Section

- R12-1-1502. Definitions
- R12-1-1503. ~~Repeated~~ Transportation of Licensed Material
- R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials
- R12-1-1505. Storage of Radioactive Material in Transport
- R12-1-1506. Preparation of Radioactive Material for Transport
- R12-1-1507. Packaging Quality Assurance
- R12-1-1508. Advance Notification of Nuclear Waste Transportation
- R12-1-1510. Packaging
- R12-1-1511. Air Transport of Plutonium
- R12-1-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste
- R12-1-1513. Reserve
- R12-1-1514. Reserve
- R12-1-1515. Exemption for Low-level Radioactive Materials

**ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES**

Section

- R12-1-1713. Transportation precautions

**ARTICLE 1. GENERAL PROVISIONS**

**R12-1-101. Scope**

- A. Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own, or acquire any source of radiation.
- B. This Chapter does not apply to any person that is subject to regulation by the Nuclear Regulatory Commission.
- C. State control of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission, signed March 30, 1967, incorporated by reference in this rule and on file with the Office of the Secretary of State which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or references.

**R12-1-102. Definitions**

Terms defined in A.R.S. § 30-651 have the same meanings when used in this Chapter. Additional subject specific definitions are used in other Articles.

“A<sub>1</sub>” No change

“A<sub>2</sub>” means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package. These values are either listed in 10 CFR 71.137, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71.137, Appendix A, 2001 Edition, published January 1, 2001-2007, incorporated by reference and on file with the Agency and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

“Absorbed dose” No change

“Accelerator” No change

“Accelerator produced material” No change

“Act” No change

“Activity” No change

“Adult” No change

“Agency” or “ARRA” No change

“Agreement State” No change

“Airborne radioactive material” No change

“Airborne radioactivity area” No change

“ALARA” No change

“Analytical x-ray equipment” No change

“Analytical x-ray system” No change

“Annual” No change

“Background radiation” No change

“Becquerel” No change

“Bioassay” No change

“Brachytherapy” No change

“By-product material” No change

“Calendar quarter” No change

“Calibration” No change

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, 2001 Edition, published April 1, 2001-2007, incorporated by reference and on file with the Agency and the Office of Secretary of State. This incorporation by reference contains no future editions or amendments.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, both references 2001 Edition, published April 1, 2001-2007, incorporated by reference and on file with the Agency and the Office of Secretary of State. These incorporations by reference contain no future editions or amendments.

“CFR” No change

“Chelating agent” No change

“Civil penalty” No change

“Collective dose” No change

“Committed dose equivalent” No change

“Committed effective dose equivalent” No change

“Curie” No change

“Current license or registration” No change

“Deep-dose equivalent” No change

“Depleted uranium” No change

“Dose” No change

“Dose equivalent” No change

“Dose limits” No change

“Dosimeter” No change

“Effective dose equivalent” No change

“Effluent release” No change

“Embryo/fetus” No change

“Enclosed beam x-ray system” No change

“Enclosed radiography” No change

    “Cabinet radiography” No change

    “Shielded room radiography” No change

“Entrance or access point” No change

“Exhibit” No change

“Explosive material” No change

“Exposure” No change

“Exposure rate” No change

“External dose” No change

“Extremity” No change

“Fail-safe characteristics” No change

“Field radiography” No change

“Field station” No change

“Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities”  
No change

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190 and 191, ~~2001 Edition, published July 1, 2001~~ 2006, incorporated by reference and on file with the Agency and the Office of the Secretary of State, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. This incorporation by reference contains no future editions or amendments.

“Gray” No change

“Hazardous waste” No change

“Healing arts” No change

“Health care institution” No change

“High radiation area” No change

“Human use” No change

“Impound” No change

“Individual” No change

“Individual monitoring” No change

“Individual monitoring device” or “individual monitoring equipment” No change

“Industrial radiography” No change

“Injection tool” No change

“Inspection” No change

“Interlock” No change

“Internal dose” No change

“Irradiate” No change

“Laser” No change

“Lens dose equivalent” No change

“License” No change

“Licensed material” No change

“Licensed practitioner” No change

“Licensee” No change

“Licensing State” No change

“Limits” No change

“Local components” No change

“Logging supervisor” No change

“Logging tool” No change

“Lost or missing licensed or registered source of radiation” No change

“Low-level waste” No change

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4, ~~2001 Edition, published January 1, 2001~~ 2007, incorporated by reference and on file with the Agency ~~and the Office of the Secretary of State~~. This incorporation by reference contains no future editions or amendments.

“Medical dose” No change

“Member of the public” No change

“MeV” No change

“Mineral logging” No change

“Minor” No change

“Monitoring” No change

“Multiplier” No change

“NARM” No change

“Normal operating procedures” No change

“Natural radioactivity” No change

“NRC” No change

“Nuclear waste” means any highway route controlled quantity (defined in 49 CFR 173.403, ~~2001 Edition, published October 1, 2001~~ 2006, incorporated by reference and on file with the Agency ~~and the Secretary of State~~, containing no future editions or amendments) of source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

“Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to sources of radiation, whether in the possession of a licensee, registrant, or other person. Occupational dose does not include a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with ~~R12-1-719~~ R12-1-717, voluntary participation in a medical research program, or as a member of the public.

“Open beam system” No change

“Package” No change

“Particle accelerator” No change

“Permanent radiographic installation” No change

“Personnel dosimeter” No change

“Personnel monitoring equipment” No change

“Personal supervision” No change

“Pharmacist” No change

“Physician” No change

“Primary beam” No change

“Public dose” means the dose received by a member of the public from radiation from radioactive material released by a licensee or registrant, or exposure to a source of radiation used in a licensed or registered operation. It does not include an occupational dose or a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with ~~R12-1-719~~

R12-1-717, or voluntary participation in a medical research program.

“Pyrophoric liquid” No change

“Pyrophoric solid” No change

“Qualified expert” No change

“Quality Factor” No change

“Quarter” No change

“Rad” No change

“Radiation” No change

“Radiation area” No change

“Radiation dose” No change

“Radiation machine” No change

“Radiation safety officer” No change

“Radioactive marker” No change

“Radioactive material” No change

“Radioactivity” No change

“Radiographer” No change

“Radiographer’s assistant” No change

“Registrant” No change

“Registration” No change

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 100 through 199, ~~1995 Edition, published October 1, 1995~~ 2006, incorporated by reference and on file with the Agency ~~and the Office of the Secretary of State~~. This incorporation by reference contains no future editions or amendments.

“Rem” No change

“Research and Development” No change

“Restricted area” No change

“Roentgen” No change

“Safety system” No change

“Sealed source” No change

“Sealed Source and Device Registry” No change

“Shallow-dose equivalent” No change

“Shielded position” No change

“Sievert” No change

“Site boundary” No change

“Source changer” No change

“Source holder” No change

“Source material” No change

“Source material milling” No change

“Source of radiation” or “source” No change

“Special form radioactive material” means radioactive material that satisfies all of the following conditions:

It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

It satisfies the test requirements specified in 10 CFR 71, ~~2000 Edition, published January 1, 2000~~ 2007, incorporated by reference in this rule and on file with the Agency ~~and the Office of the Secretary of State~~. This incorporation by reference contains no future editions or amendments. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation constructed after June 30, 1985, shall meet requirements of this definition applicable at the time of its construction.

“Special nuclear material in quantities not sufficient to form a critical mass” No change

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"Storage area" No change

"Storage container" No change

"Subsurface tracer study" No change

"Survey" No change

"TEDE" means ~~Total Effective Dose Equivalent, the sum of the deep-dose equivalent for external exposures and the committed effective dose equivalent for internal exposures. (See "Total Effective Dose Equivalent")~~

"Teletherapy" No change

"Temporary job site" No change

"Test" No change

"These rules" No change

"Total Effective Dose Equivalent" (TEDE) No change

"Total Organ Dose Equivalent" (TODE) means ~~total organ dose equivalent, the sum of the deep-dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in R12-1-419(D)(1)(d) of these rules. Determination of TODE is described in R12-1-411.~~

"Unrefined and unprocessed ore" No change

"Unrestricted area" No change

"U.S. Department of Energy" No change

"Very high radiation area" No change

"Waste" No change

"Waste handling licensees" No change

"Week" No change

"Well-bore" No change

"Well-logging" No change

"Whole body" No change

"Wireline" No change

"Wireline service operation" No change

"Worker" No change

"WL" No change

"WLM" No change

"Workload" No change

"Year" No change

**R12-1-103. Exemptions**

A. Common and contract carriers, freight forwarders, and warehousemen who are subject to 49 CFR 107.109, 107.111, 107.113, 171.2, 171.3, 172.200, 173.1, 173.3, 173.4, 173.401, 175.3, 175.5, 175.10, 176.3, 176.5, 176.11, 176.24, 176.27, and 177.801, ~~2000 Edition, published October 1, 2000~~ 2006, of the U.S. Department of Transportation, or 39 CFR 111.1 of the U.S. Postal Service, ~~2001 Edition, published January 1, 2001~~ 2007, incorporated by reference and on file with the Agency and the Office of the Secretary of State, and if need be, store radioactive material, for periods of less than 72 hours, in the regular course of their carriage for another, are exempt from this Chapter. The above incorporation by ~~reference~~ reference contains no future editions or amendments.

B. No change

1. No change

2. No change

3. No change

4. No change

a. No change

b. No change

C. No change

**ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES**

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**R12-1-201. Exemptions**

- A. Electronic equipment that produces X-radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Article, provided that an exposure rate, from any accessible surface, averaged over an area of 10 square centimeters (1.55 in.<sup>2</sup>) does not exceed ~~129  $\mu$ C/kg per hour~~ 5  $\mu$ Sv (0.5 milliroentgen per hour) at 5 cm (2.0 in.). ~~The production, testing, or factory servicing of electronic equipment that produces X-radiation incidental to its operation is not exempt.~~
- ~~B.~~ The production, testing, or factory servicing of the electronic equipment in subsection (A) is not exempt from the requirements of this Article.
- ~~B.C.~~ Radiation machines in storage or in transit to or from storage are exempt from the requirements of this Article.
- ~~C.D.~~ Radiation machines rendered incapable of producing radiation are exempt from ~~this~~ the requirements of this Article.

**R12-1-203. Application for Registration of Servicing and Installation**

- A. Each person who is engaged in the business of installing or offering to install radiation machines ~~or is engaged in the business of furnishing or offering to furnish radiation machine servicing or services in this state~~ shall apply for registration. ~~If registration is required, any subsequent application shall be submitted before furnishing or offering to furnish any radiation machine service or installation. For purposes of these rules, install includes selling and servicing, or offering to sell or service, x-ray machines in Arizona.~~
- B. ~~Application~~ The applicant shall complete the application for registration shall be completed on forms furnished on forms that request information required by A.R.S. § 30-672.01, provided by the Agency and shall contain all information required by A.R.S. § 30-672.01.

**R12-1-205. Expiration of Notice of Registration or Certification**

~~A Notice of Registration, or certificate issued according to R12-1-208, expires at the end of the day on the date stated in the Notice of Registration or certificate unless the registrant or certificate holder, not less than 30 days prior to the expiration of the Notice of Registration or certificate, files a complete application for renewal. If a timely application for renewal is filed, the Notice of Registration or certificate does not expire until the application status is finally determined by the Agency.~~

- ~~A.~~ A Notice of Registration, or certificate issued according to R12-1-204 and R12-1-208, expires at the end of the day on the expiration date stated in the Notice of Registration or certificate.
- ~~B.~~ If an application for renewal is filed by the registrant or certificate holder, not less than 30 days prior to the expiration of the Notice of Registration or certificate, the Notice of Registration or certificate does not expire.

**R12-1-206. Assembly, Installation, Removal from Service, and Transfer**

- A. No change
1. No change
2. No change
3. No change
- B. No change
- C. In the case of diagnostic x-ray systems that contain certified components, an assembler shall ~~submit to the Agency a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), 2000 Edition, published April 1, 2000 by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference and on file with the Agency, containing no future editions or amendments, within 15 days following completion of the assembly,~~ within 15 days following completion of the assembly, submit to the Agency a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), April 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in subsection (A)(2).
- D. No change

**R12-1-207. Reciprocal Recognition of Out-of-state Radiation Machines**

- A. No change
- B. No change
1. No change
2. Upon request, supply the Agency with a copy of the machine's registration and other information regarding the safe operation of ~~a~~ the machine while it is in the state; and
3. No change
- C. No change

**Appendix A. Application Information**

An application shall contain the following information as required in R12-1-202(B), before a registration will be issued. The Agency shall provide an application form to an applicant with a guide, if available, or shall assist the applicant to ensure that

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only correct information is provided on the application.

Name and mailing address of applicant	Use location
Person responsible for radiation safety program	Telephone number
Type of facility	Facility subtype
Legal structure and ownership	Signature of certifying agent
Radiation machine information	Equipment identifiers
Shielding information	Scale drawing, if applicable
Equipment operator instructions and restrictions	Physicist name and training, if applicable
Classification of professional in charge	
Record of calibration for therapy units	Type of request: amendment, new, or renewal
Protection survey results, if applicable	
Type of industrial radiography program, if applicable	
Radiation Safety Officer name, if applicable	Contact person
Other registration requirements listed in Articles 2, 6, 8, <del>and 9</del> <u>9</u> <u>and 11</u>	Appropriate fee listed in Article 13 schedule

**ARTICLE 3. RADIOACTIVE MATERIAL LICENSING**

**R12-1-306. General License – Radioactive Material Other Than Source Material**

- A.** No change
1. No change
  2. No change
- B.** Certain measuring, gauging or controlling devices
1. This subsection grants a general license that authorizes a person such as a commercial or industrial firms; a research, educational or medical; an individual conducting business; or a state or local government agency to receive, acquire, possess, use, or transfer radioactive material according to the provisions of 10 CFR 31.5~~(b) and (c)~~ (b), (c), and (d), January 1, ~~2005~~ 2007, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments.
  2. A general licensee shall receive a device from one of the specific licensees described in this Section or through a transfer made under subsection ~~(4)(i)~~ (4)(k).
  3. No change
    - a. No change
    - b. No change
  4. No change
    - a. No change
    - b. No change
      - i. No change
      - ii. No change
    - c. No change
      - i. No change
      - ii. No change
    - d. No change
    - e. No change
      - i. No change
      - ii. No change
      - iii. No change
    - f. No change
    - g. No change
    - h. No change
    - i. No change
      - i. No change
      - ii. No change
      - iii. No change
    - j. No change



- k. No change
  - i. No change
  - ii. No change
- l. No change
- m. No change
- n. No change
- o. No change
- p. No change
- q. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
  - v. No change
  - vi. No change
- r. No change
- s. No change
- 5. No change
- 6. No change
- C.** No change
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    - b. No change
    - c. No change
    - d. No change
- D.** No change
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      - ii. No change
    - c. No change
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    - e. No change
  - 3. No change
- E.** No change
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  - 4. No change
- F.** No change
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    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
  - 2. No change
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    - b. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change

- e. No change
- 4. No change
  - a. No change
  - b. No change
    - i. No change
    - ii. No change
- 5. No change
  - a. No change
  - b. No change
- 6. No change
- G.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change

**R12-1-311. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material**

- A.** No change
  - 1. No change
    - a. No change
    - b. No change
  - 2. No change
    - a. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
    - h. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
      - vi. No change
    - i. No change
    - j. No change
    - k. No change
    - l. No change
    - m. No change
  - 3. No change
- B.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
      - i. No change

- ii. No change
  - d. No change
    - i. No change
    - ii. No change
    - iii. No change
  - 3. No change
- C.** No change
  - 1. No change
  - 2. No change
- D.** No change
  - 1. No change
    - a. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
    - c. No change
    - d. No change
      - i. No change
      - ii. No change
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    - j. No change
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    - e. No change
    - f. No change
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      - ii. No change
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    - b. No change
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    - d. No change
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  - 8. No change
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      - iv. No change
      - v. No change

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- f. No change
- g. No change
- 9. No change
- E.** No change
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  - 2. No change
- F.** No change
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  - 2. No change
- G.** No change
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    - b. No change
- H.** No change
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    - d. No change
    - e. No change
    - f. No change
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  - 3. No change
    - a. No change
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  - 4. No change
    - a. No change
    - b. No change
  - 5. No change
- I.** No change
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- J.** No change
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      - ii. No change
    - c. No change
    - d. No change
    - e. No change
  - 2. No change
- K.** No change
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    - b. No change
  - 3. No change
  - 4. No change

- 5. No change
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- L. No change
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    - d. No change
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    - f. No change
    - g. No change
    - h. No change
    - i. No change
    - j. No change
- M. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
      - i. No change
      - ii. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
      - vi. No change
- N. A licensee who manufacturers nationally tracked sources, as defined in Article 4, shall:
  - 1. Serialize the sources in accordance with 10 CFR 32.201, January 1, 2007, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC, and on file with the Agency (This incorporation by reference contain no future editions or amendments); and
  - 2. Report manufacturing activities in accordance with R12-1-454.

**R12-1-324. Public Notification and Public Participation**

Upon the receipt of a license termination plan (LTP) or decommissioning plan from a licensee, or a proposal by a licensee for decommissioning of a site in accordance with ~~R12-1-451 and R12-1-452~~, R12-1-452(C) and (D) or for other events when the Agency deems a notice to be in the public interest, the Agency shall:

- 1. No change
  - a. No change
  - b. The Arizona Department of Environmental Quality for cases in which the licensee proposes to decommission a site in accordance with R12-1-452(D).
- 2. No change

**ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION**

**R12-1-403. Definitions**

- "Air-purifying respirator" No change
- "ALI" No change

“Assigned protection factor (APF)” No change

“Atmosphere-supplying respirator” No change

“Class” No change

“Critical group” No change

“DAC” No change

“DAC-hour” No change

“Declared pregnant woman” No change

“Demand respirator” No change

“Deterministic effect” [see “nonstochastic effect”] No change

“Disposable respirator” No change

“Dosimetry processor” No change

“Filtering face piece (dust mask)” No change

“Fit test” No change

“Helmet” No change

“Hood” No change

“Inhalation class” [see “Class”] No change

“Loose-fitting face piece” No change

“Lung class” [see “Class”] No change

“Nationally tracked source” means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in Appendix E in 10 CFR 20, January 1, 2007, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC, and on file with the Agency. This incorporation by reference contain no future editions or amendments.

“Negative pressure respirator (tight fitting)” No change

“Positive pressure respirator” No change

“Powered air-purifying respirator (PAPR)” No change

“Pressure demand respirator” No change

“Probabilistic effect” [see “Stochastic effect”] No change

“Qualitative fit test (QLFT)” No change

“Quantitative fit test (QNFT)” No change

“Reference Man” No change

“Respiratory protective equipment” No change

“Sanitary sewerage” No change

“Self-contained breathing apparatus (SCBA)” No change

“Stochastic effect” No change

“Supplied-air respirator (SAR) or airline respirator” No change

“Tight-fitting face piece” No change

“User seal check (fit check)” No change

“Very high radiation area” No change

“Weighting factor” No change

**R12-1-419. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose**

**A.** No change

**B.** No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

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7. No change
8. No change
9. No change
10. Individuals operating open beam fluoroscopic systems and ancillary personnel working in the room when the fluoroscopic system is in use, except when relieved of this requirement by registration condition; ~~and~~
11. Individuals performing well logging, as described in Article 17-, and
12. Individuals on their extremities during the operation of an open-beam or hand-held analytical x-ray machine with no safety devices or if service is performed in the primary beam of the analytical x-ray machine, as described in R12-1-806(D).

C. No change

1. No change
2. No change
3. No change

**D.** Each licensee or registrant shall require that all individual monitoring devices be located on individuals according to the following requirements:

1. An individual monitoring device used for the dose to an embryo or fetus of a declared pregnant woman, according to R12-1-415(A), shall be located under the protective apron at the waist. A qualified expert shall be consulted to determine the dose to the embryo or fetus for the rare occasion in which this individual monitoring device has a monthly reported dose equivalent value in excess of 0.5 mSv (50 mrem). For purposes of these rules, the value to be used for determining the dose to an embryo or fetus according to R12-1-415(C)(1), for occupational exposure to radiation from medical fluoroscopic equipment, is the value reported by the individual monitoring device worn at the waist underneath the protective apron which has been corrected for the particular individual and the work environment by a qualified expert;
2. An individual monitoring device used for lens dose equivalent shall be located at the neck, or an unshielded location closer to the eye, outside the protective apron;
3. If only one individual monitoring device is used to determine the effective dose equivalent for external radiation according to R12-1-408(C)(2), it shall be located at the neck outside the protective apron. If a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the waist. (Note: The second individual monitoring device is required for a declared pregnant woman.)

~~D-E.~~ No change

1. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
2. No change
3. No change
4. No change
5. No change

**R12-1-422. Control of Access to Irradiators (Very-high Radiation Areas)**

A. No change

B. No change

1. No change
  - a. No change
  - b. No change
  - c. No change
2. No change
  - a. No change
  - b. No change
3. No change
  - a. No change
  - b. No change
4. No change
5. No change
6. No change
7. No change

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8. The licensee or registrant shall check each area by radiation measurement to ensure that, before the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area ~~is below that at which it would be possible for an individual to receive~~ will not expose an individual to a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour.
  9. No change
    - a. No change
    - b. Testing shall be conducted before resumption of operation of the source of radiation after any unintentional interruption ~~and;~~
    - c. The licensee or registrant shall submit to the Agency ~~and adhere to a schedule for periodic tests of the entry control and warning systems; a schedule of testing; and~~
    - d. The licensee or registrant shall include in the schedule a listing of the periodic testing that will be followed.
  10. No change
  11. The licensee or registrant shall control entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by ~~individuals~~ personnel, with devices and administrative procedures necessary to physically protect and warn against inadvertent entry by ~~any an~~ an individual through ~~these one of the~~ one of the portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any uncontained radioactive material that is carried toward an exit and automatically prevent contained radioactive material from being carried out of the area.
- C. No change
- D. No change
- E. No change
  1. No change
  2. No change

**R12-1-431. Labeling Containers and Radiation Machines**

- A. No change
- B. ~~Each licensee shall, before~~ Before removal or disposal of an empty, uncontaminated container to an unrestricted area, each licensee shall remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.
- C. No change
- D. A licensee shall label each syringe and each vial that contains a radiopharmaceutical, used in the practice of medicine, to identify its radiopharmaceutical content ~~licensee shall label each syringe and vial used in the practice of medicine with the radiopharmaceutical content.~~ Each syringe shield and vial shield shall ~~also~~ be labeled, unless the label on the syringe or vial is visible when shielded. The label shall ~~indicate contain~~ the radiopharmaceutical name or its abbreviation, the clinical procedure to be performed, or the name of the person being administered the radiopharmaceutical. Color-coding syringe shields and vial shields does not meet the labeling requirement.

**R12-1-432. Labeling Exemptions**

1. No change
2. No change
3. No change
4. Containers holding radioactive material that ~~does do~~ not exceed the limits for excepted quantity or article as defined and limited in 49 CFR 173.403, and 173.421 through 173.424, and are transported, packaged, and labeled in accordance with 49 CFR 172.436 through 172.440, ~~1999 Edition, published October 1, 1999~~ 2006, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, DC 20408, and; incorporated by reference and on file with the Agency ~~and Office of Secretary of State~~. This incorporation by reference contains no future editions or amendments;
5. Containers that are accessible only to individuals authorized to handle, use, or work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record. Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells. A licensee shall retain the record as long as the ~~containers are~~ container is in use for the purpose indicated on the record; or
6. No change

**R12-1-434. General Requirements for Waste Disposal**

- A. No change
  1. No change
  2. No change
  3. No change
  4. No change
- B. ~~A person shall be specifically licensed to receive waste containing licensed material from other persons~~ To receive waste



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containing licensed material from other persons, a persons shall be specifically licensed for:

1. No change
2. No change
3. No change
4. No change
5. No change

**R12-1-435. Method for Obtaining Approval of Proposed Disposal Procedures**

~~A licensee or applicant for a license may apply to the Agency for approval of proposed procedures, not otherwise authorized in this Chapter for disposal of licensed material generated in the licensee's operations. For disposal of licensed material generated in the licensee's operations, a licensee or applicant for a license may apply to the Agency for approval of disposal proposed procedures, not otherwise authorized in this Chapter.~~ Each application shall include:

1. No change
2. No change
3. No change
4. No change
5. No change

**R12-1-438. Disposal of Specific Wastes**

- A. No change
  1. No change
  2. No change
  3. No change
- B. No change
- C. No change
  1. No change
  2. No change
- D. No change

**R12-1-440. Compliance with Environmental and Health Protection Regulations**

Nothing in R12-1-434, R12-1-435, R12-1-436, R12-1-437, R12-1-438, or R12-1-439 relieves the licensee from complying with other applicable federal, state, and local regulations governing any other toxic or hazardous properties of materials that may be disposed of according to ~~R12-1-434, R12-1-435, R12-1-436, R12-1-437, R12-1-438, or R12-1-439~~ to the rules listed above in this Section.

**R12-1-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation**

- A. No change
  1. No change
  2. No change
  3. No change
- B. No change
  1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
- C. No change
- D. The licensee or registrant shall provide the Agency the names of individuals who may have received an exposure to radiation as a result of an incident ~~as required in reported to the Agency under~~ subsection (B).

**R12-1-446. Notifications and Reports to Individuals**

- A. No change
- B. ~~Each~~ In addition to the reporting requirements in R12-1-445 each licensee or registrant shall notify the individual exposed to radiation or radioactive material, ~~in the report to the Agency required in R12-1-445. A separate~~ The notice to the exposed individual shall be provided no later than the date the report is submitted to the Agency and shall comply with R12-1-1004(A).

**R12-1-447. Vacating Premises**

- A. If a facility has been used for activities involving radioactive material ~~each~~ a licensee shall notify the Agency in writing of the intent to vacate the facility no less than 45 days before relinquishing possession or control of the facility.

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- B. If a facility is contaminated with radioactive material, ~~the~~ a licensee vacating the facility shall decontaminate it using Agency-approved procedures.
- C. No change

**R12-1-448. Additional Reporting**

- A. No change
- B. Each licensee shall notify the Agency within 24 hours after ~~the discovery of~~ discovering any of the following events involving licensed material:
  - 1. A contamination event that:
    - a. ~~Requires~~ Requires that anyone having access to the contaminated area, ~~by workers or the public, being~~ be restricted for more than 24 hours by the imposition of additional radiological controls to prohibit entry into the area; and
    - b. No change
    - c. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- D. Each licensee who makes a report required by subsection (A) or (B) shall submit to the Agency a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this Section. ~~The licensee shall send the written report to the Agency.~~ The report shall include the following:
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. The extent of personnel exposure ~~of individuals~~ to radiation or to radioactive materials without identification of ~~individuals~~ each exposed individual by name.

**R12-1-449. Survey Instruments and Pocket Dosimeters**

- A. No change
- B. No change
  - 1. No change
  - 2. No change
- C. No change
- D. No change
  - 1. No change
  - 2. No change
- E. No change
- F. No change
  - 1. Have been evaluated for proper operation annually, and following repair using a procedure acceptable to the Agency, unless a more frequent evaluation is required by license condition, using a procedure acceptable to the Agency, for proper operation annually, and following repair, unless a more frequent evaluation is required by license condition. ~~With the exception of electronic pocket dosimeters, which are exempted from the drift test, the evaluation shall include a check for drift over a 24 hour period; unless the dosimeter is electronic, the evaluation of the dosimeter shall include a drift test over a 24 hour period; and~~
  - 2. Meet the performance criteria listed in ~~R12-1-523(B)~~ R12-1-523(C) and R12-1-1130(C).
- G. No change

**R12-1-454.      Nationally Tracked Sources**

- A.** A licensee who manufactures, receives, transfers, or disposes of a nationally tracked sealed source shall complete and submit to the Nuclear Regulatory Commission's (NRC) National Source Tracking System and the Agency, a National Source Tracking Transaction Report that contains the information required in 10 CFR 20.2207(a) through (e), January 1, 2007, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC, and on file with the Agency. This incorporation by reference contain no future editions or amendments. The report shall be submitted before the close of the next business day after the transaction in a reporting form specified in 10 CFR 20.207(f), January 1, 2007, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC, and on file with the Agency. This incorporation by reference contain no future editions or amendments.
- B.** A licensee shall correct any error in previously filed National Source Tracking Transaction Reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction in accordance with 10 CFR 20.207(g), January 1, 2007, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC, and on file with the Agency. This incorporation by reference contain no future editions or amendments.
- C.** Initial National Source Tracking Transaction Report shall contain the information required in Part (A), shall be submitted in a form specified in 10 CFR 20.2207(f) and include the additional information in 10 CFR 20.2207(h)(1) through (6), January 1, 2007, both references are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC, and on file with the Agency. The incorporation by references contain no future editions or amendments.
- D.** A licensee who receives a nationally tracked sealed source shall not disassemble the source unless specifically authorized to do so by the Agency.

**ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS**

**R12-1-602.      Definitions**

The following definitions apply in this Article:

- "Accessible surface" No change
- "Added filter" No change
- "Aluminum equivalent" No change
- "Assembler" No change
- "Attenuation block" No change
- "Automatic exposure control" No change
- "Barrier" (See "Protective barrier") No change
- "Beam axis" No change
- "Beam-limiting device" No change
- "C-arm x-ray system" No change
- "Changeable filter" No change
- "Cinefluorography" No change
- "Coefficient of variation" No change
- "Collimator" No change
- "Compression device" No change
- "Computed tomography" No change
- "Contact therapy system" No change
- "Control panel" No change
- "Cooling curve" No change
- "CT gantry" No change
- "Dead-man switch" No change
- "Diagnostic source assembly" No change
- "Diagnostic x-ray system" No change
- "Direct scattered radiation" No change
- "Entrance exposure rate" No change

“Equipment” (See “X-ray equipment”) No change

“Filter” No change

“Fluoroscopic imaging assembly” No change

“Fluoroscopic system” No change

“Focal spot” No change

“General purpose radiographic x-ray system” No change

“Gonadal shield” No change

“Grid” No change

“Half-value layer (HVL)” No change

“Healing arts radiography” means the ~~practice of applying~~ application of x-radiation to human patients by a person certified in accordance with R12-1-603(B)(1), or a licensed practitioner, for diagnostic or therapeutic purposes at the direction of a licensed practitioner. Healing arts radiography includes:

Positioning the x-ray beam with respect to the patient;

Anatomical positioning of the patient;

Selecting exposure factors; or

Initiating the exposure.

“Healing arts screening” No change

“Image intensifier” No change

“Image receptor” No change

“Inherent filtration” No change

“Kilovolts peak (kVp)” (See “Peak tube potential”) No change

“Lead equivalent”

“Leakage radiation” No change

“Leakage technique factors” No change

“mA” No change

“Mammographic x-ray system” No change

“mAs” No change

“Mobile equipment” (See “X-ray equipment”) No change

“Peak tube potential” No change

“Phantom” No change

“Phototimer” (See automatic exposure control) No change

“Portable equipment” (See X-ray equipment”) No change

“Primary protective barrier” (See “Protective barrier”) No change

“Protective apron” No change

“Protective barrier” No change

“Primary protective barrier” No change

“Secondary protective barrier” No change

“Protective glove” No change

“Scattered radiation” No change

“Screen” or “intensifying screen” No change

“Secondary protective barrier” (See “Protective barrier”) No change

“Shutter” (See collimator). No change

“Source” No change

“Source-image receptor distance (SID)” No change

“Spot check” No change

“Stationary equipment” (See “X-ray equipment”) No change

“Stray radiation” No change

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"System"- (See ~~x-ray~~ "X-ray system") No change

"Technique chart" No change

"Technique factors" No change

"Treatment simulator" No change

"Tube" No change

"Tube housing assembly" No change

"Tube rating chart" No change

"Useful beam" No change

"Visible area" No change

"X-ray equipment" No change

"X-ray system" No change

"X-ray tube" No change

**R12-1-603. Operational Standards, Shielding, and Darkroom Requirements**

A. No change

B. No change

1. No change

2. No change

3. No change

C. No change

1. No change

2. Each registrant shall ensure that attenuation provided by a protective barrier meets or exceeds the level of protection established in the National Council on Radiation Protection Report No. 49, "Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies Up To 10 MeV," September 15, 1976 edition, published 147, "Structural Shielding Design For Medical X-ray Imaging Facilities," November 19, 2004, which is incorporated by reference, published by the National Council on Radiation Protection and Measurement, Inc., and on file with the Agency. The material incorporated by reference contains no future editions or amendments, which is incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments. Each registrant shall use this incorporated reference to provide sufficient shielding to prevent public exposure in excess of the limits in R12-1-416.

3. No change

a. No change

b. No change

c. No change

d. No change

e. No change

4. No change

5. The registrant shall install shielding that limits radiation exposure to 2 mRem in a week for personnel in the x-ray machine control booth.

D. Film Processing and Darkroom Requirements. A registrant shall:

1. Use darkroom conditions to prevent film fog of greater than or equal to 0.05 optical density. The registrant shall use following procedure to test for film fog:

a. The registrant shall expose the film radiographically so the processed film has an optical density of at least 1.0 over Base density, but less than an optical density of 1.0 under Dmax;

b. The registrant shall then expose half of the radiographically-exposed film in the darkroom for two minutes; and

e. The registrant shall then compare the difference in optical densities between the darkroom-exposed half and non-darkroom-exposed half to determine whether film fog is less than 0.05 optical density. Note: Base is the optical density of unexposed film as used at the facility; (Base + Fog) is the optical density of Base-unexposed film exposed in the darkroom for two minutes.

2. Use a thermometer and timer operable and appropriate to the type of film processing in the darkroom; and

3. Develop film according to the manufacturer's instructions.

1. Ensure the darkroom is light-tight and utilize proper safe-lighting, such that any film type in use exposed in a cassette to x-ray radiation sufficient to produce an optical density between 1 and 2 when processed, exposing the film in the darkroom for two minutes will not produce an increase in density greater than 0.1 (0.05 for mammography). A processor with a daylight loader shall meet this same requirement;

2. Ensure that film is stored in a cool, dry place and is protected from radiation exposure; and that film located in open

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- packages is stored in a light-tight container. Outdated film shall not be used for diagnostic radiographs;
3. Ensure film cassettes and intensifying screens are inspected annually, cleaned, and replaced as necessary;
  4. Ensure that cassettes contain film and screens of the same sensitivity;
  5. Ensure that automatic film processors develop film in accordance with time-temperature relationships recommended by the film manufacturer;
  6. Ensure that manually developed film is developed in accordance with the time-temperature relationships recommended by the manufacturer, and that a timer, thermometer, and a time-temperature chart are available and utilized in the darkroom; and
  7. Ensure that film processing solutions are prepared and maintained in accordance with the directions of the manufacturer.

**R12-1-604. General Procedures**

- A. No change
1. No change
  2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  3. No change
    - a. No change
    - b. No change
    - c. Exposure of an individual for the purpose of healing arts screening, except as authorized by the Agency after submitting to the Agency the information listed in Appendix A of this Article. If any information submitted to the Agency changes, the registrant shall immediately notify the Agency of the changes;
    - d. Routinely holding film or patients being exposed to x-ray radiation; or
    - e. Exposure of an individual to fluoroscopy as a positioning tool for general purpose radiological procedures.
  4. No change
  5. Each registrant shall check radiation protective equipment for reliability and integrity defects on an annual basis.
    - a. Aprons, gloves, and shields shall be checked for holes, tears, and breaks.
    - b. If defects are found in the equipment, the registrant shall replace or remove it from service. Equipment removed from service shall not be put back into service until it is repaired.
    - c. A record of the reliability and integrity checks, and equipment replacement shall be maintained for three years.
- B. No change
- ~~1. Maximum rating of technique factors.~~
  - ~~2. Aluminum equivalent filtration of the useful beam, including any routine variation.~~
  - ~~3. Tube rating charts and cooling curves.~~
  4. Record of surveys ~~Surveys~~, calibrations, maintenance, modifications (from the original schematics and drawings) performed on the x-ray machine or room after the effective date of these rules, along with the names of persons who performed the service.
  - ~~5. A copy of all correspondence~~ Correspondence with the Agency regarding the x-ray machine facility.

**R12-1-605. X-ray Machine Standards**

- A. No change
- B. No change
- C. No change
1. No change
  2. No change
  3. No change
  4. No change
  5. When determining the minimum aluminum equivalent filtration, ~~The~~ the registrant shall include the filtration contributed by all materials that are always present between the focal spot of the tube and the patient (for example, a tabletop when the tube is mounted "under the table" and inherent filtration of the tube).
- D. No change
- E. No change
- F. No change
- G.** Accuracy deviation. A registrant shall not use an x-ray machine if the measured technique factors for kVp and time duration are not within the limits specified by the manufacturer. In the absence of the manufacturer's specifications, a registrant shall not use an x-ray machine if the measured kVp is not within 10% of the indicated kVp value and the measured

time duration is not within 20% of the indicated time.

**R12-1-606. Fluoroscopic and Fluoroscopic Treatment Simulator Systems**

- A.** No change
  - 1. No change
  - 2. Ensure that the x-ray field size produced by fluoroscopic systems without image intensification ‡ does not extend beyond the visible area of the image receptor at any SID;
  - 3. No change
  - 4. No change
  - 5. No change
- B.** Fluoroscopic primary protective barrier. A registrant shall:
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. For equipment installed before November 15, 1967, the required lead equivalent of the barrier ‡ is not less than 1.5 millimeters for fluoroscopes that produce less than 100 kVp, 1.8 millimeters for fluoroscopes that produce from 100 kVp up to 125 kVp, and 2.0 millimeters for fluoroscopes that produce 125 or more kVp. (For conventional fluoroscopes, these requirements may be assumed to have been met if the exposure rate measured at the viewing surface of the fluorescent screen does not exceed 12.9 µC/kg (50 milliroentgens) per hour with the screen in the primary beam of the fluoroscope without a patient, under normal operating conditions.) For equipment installed or reinstalled, the required lead equivalent of the barrier is 2.0 millimeters for up to 125 kVp or 2.7 millimeters for 125 or more kVp.
    - b. No change
    - c. No change
- C.** No change
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
- D.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- E.** No change
  - 1. No change
  - 2. No change
  - 3. No change
- F.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- G.** No change
- H.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change

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**R12-1-607. Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Fluoroscopic and Dental Intraoral Radiographic Systems**

- A. No change
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  - 3. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- D. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  - 5. ~~Provide documentation of the patient's identity, the x-ray examination performed, the date it is performed, number of projections (if applicable), and a method of identifying the individual who performed the examination, for Agency review. The registrant shall maintain the documentation for three years from the date the examination is performed. Provide documentation in chronological order of:~~
    - a. The patient's identity.
    - b. The x-ray examination performed in a radiographic log.
    - c. The date it examination is performed.
    - d. The number of projections (if applicable), and
    - e. A method of identifying the individual who performed the examination.
  - 6. The registrant shall maintain the documentation required in subsection (D)(5) in written or immediately available electronic form. The documentation shall be maintained for three years from the date the examination is performed.

**R12-1-608. Mobile Diagnostic Radiographic and Fluoroscopic Systems, Except Dental Intraoral Radiographic Systems**

- A. No change
  - 1. No change
  - 2. ~~A~~ For radiographic units the registrant shall provide a "dead-man" switch, together with an electrical cord of sufficient length so that the operator can stand out of the useful beam and at least 1.82 meters (6 feet) from the patient during all x-ray exposures
  - 3. No change
- B. No change
- C. No change
  - 1. No change
  - 2. No change

**R12-1-610. Dental Intraoral Radiographic Systems**



- A. No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. Use a control panel that includes:
    - a. ~~A device that will give positive indication during radiation production, and~~ A means to provide visual or audible indication, detectable at or from the operator's position, indicating x-ray production or exposure termination, and
    - b. ~~Indicators, labeled control settings, or meters, indicating the appropriate technical factors: kVp, mA, or exposure time, and any special mode selected for the exposure. Indication of the appropriate technical factors for kVp, mA, exposure time, and any special mode selected for the exposure.~~
  9. Use technique factors, where deviation of measured or indicated values for kVp and time, do not exceed the limits specified by the manufacturer. In the absence of the manufacturer's specifications, the deviation shall not exceed plus or minus 10% of the indicated value for the kVp and plus or minus 20% for time duration.
  10. Utilize digital radiography techniques that permit reducing x-ray beam on-time to 25% of the time required for "D" speed film, thereby reducing radiation to the patient by the same rate. (Exposure times shall be reduced accordingly with digital systems.)
- B. No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
- C. No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change

**R12-1-611. Therapeutic X-ray Systems of Less Than 1 MeV**

- A. No change
1. No change
    - a. Contact therapy systems. Leakage radiation ~~†~~ that does not exceed 25.8  $\mu\text{C/kg}$  (100 milliroentgens) per hour at 5 centimeters (2 inches) from the surface of the tube housing assembly.
    - b. No change
    - c. 0-150 kVp systems. Systems that are manufactured on or after January 2, 1996, ~~†~~ that have a leakage radiation that does not exceed 25.8  $\mu\text{C/kg}$  (100 milliroentgens) in 1 hour at 1 meter from the source.
    - d. No change
  2. No change
  3. No change
    - a. Removable and adjustable beam-limiting devices ~~†~~, for the portion of the useful beam to be blocked by these devices, transmit not more than one percent of the original x-ray beam at the maximum kilovoltage and maximum treatment filter; and
    - b. No change
  4. No change
    - a. No change
    - b. No change
    - c. No change
  5. No change
  6. No change
  7. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change

- e. No change
  - f. No change
- 8. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
- 9. No change
  - a. No change
  - b. No change
  - c. No change
- 10. No change
- 11. No change
  - a. No change
  - b. No change
- 12. No change
- B.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change:
    - a. No change
    - b. No change
    - c. No change
    - d. No change
- C.** Surveys. A registrant shall ensure that:
  - 1. No change
  - 2. No change
  - 3. No change
- D.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
- E.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- F.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change

**R12-1-612. Computerized Tomographic Systems**

- A.** No change
  - 1. No change
  - 2. No change
  - 3. No change

- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
- 10. No change
- B.** No change
  - 1. No change
  - 2. No change
- C.** No change
  - 1. No change
    - a. No change
    - b. No change
  - 2. No change
    - a. No change
    - b. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
- D.** No change
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 3. No change
- E.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- F.** No change
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
  - 3. No change
    - a. No change
    - b. No change
  - 4. No change
    - a. No change
    - b. No change
  - 5. No change
- G.** CT units designated for simulator use, veterinary use, and non-diagnostic conjunctive use in a PET unit are exempt from the requirements in subsection (F).

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**R12-1-614. Mammography**

**A. No change**

1. No change
2. No change
3. No change
4. No change
5. The combination of focal spot size, source-to-image distance and magnification produces a radiograph with a resolution of at least 12 line pairs per millimeter at an object-to-image receptor distance of 4.5 centimeters; or the standards in Table 3-3 of the American Associates of Physicists in Medicine, Report No. 29, August 1990 edition, which is incorporated by reference, published by the American Institute of Physics, Inc., which is incorporated by reference, and on file with the Agency; and, The material incorporated by reference contains no future editions or amendments;
6. No change
7. No change
  - a. No change
  - b. No change
  - c. No change
8. No change
  - a. No change
  - b. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. ~~Cassettes~~ Screens are not used for mammography if one or more areas of greater than ~~1 cm~~ 2 cm<sup>2</sup> of poor screen-film contact are seen when tested, using a 40 mesh screen test;
15. No change
  - a. Meets the minimum mammography film standards for phantom performance in "Mammography Quality Control," ~~1992~~ 1999 edition, which is incorporated by reference, published by the American College of Radiology, ~~which is incorporated by reference~~, and on file with the Agency; and, This material incorporated by reference contains no future editions or amendments; or
  - b. Is sufficient to demonstrate in the image produced the presence of at least 4 fibers, 3 speck groups, and 3 masses that include a 0.75 millimeter fiber, a 0.32 millimeter speck group, and a 0.75 millimeter mass, using a Radiation Measurements Inc. (RMI), Model 156 phantom or its equivalent and results with a background density of at least 1.40 optical density;
16. No change
17. No change
  - a. No change
  - b. No change
  - c. No change

**B. No change**

1. Each mammography facility has a quality assurance program, and that the quality assurance program includes performance and documentation of the quality control tests in subsection (B)(2), conducted at the required time intervals, with test results that fall within the specified limits or corrective action taken ~~if results fall outside of the specified limits~~ with documentation of results prior to performing or processing any further examinations using the system that failed. A radiologic physicist, as defined in R12-1-614(C)(1)(c), shall review the program and make any recommendations necessary for the facility to comply with this Section;
2. The quality assurance program meets the requirements contained in 21 CFR 900.12(d)(1); (e)(1); (e)(2)(i),(ii), and (iii); (e)(3); (e)(4); (e)(5)(i), (ii), (iii)(A), (iv), (v), (vi), (vii)(B) and (C), (viii), (ix), (x), and (xi); (e)(8)(ii); (e)(9)(ii); and (e)(10), ~~2001 edition, published April 1, 2001, which is incorporated by reference, on file with the Agency, and contains no future editions or amendments; or meets the following requirements April 1, 2006, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments:~~
  - a. No change
  - b. Weekly phantom image quality evaluations demonstrate the visualization of at least four fibers, three speck groups, and three masses with a background of ~~>1.20~~ 1.40 optical density ~~of operating level~~, not varying by ~~±~~ more than 0.20 optical density of operating level;
  - c. No change

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- d. No change
- e. No change
- f. No change
- g. Semiannual screen film contact evaluations meet the limit of ~~<1.0 centimeter squared area of poor contact of less than one area of poor contact of 1 centimeter squared~~, using a 40 mesh screen on all clinically-used screens;
- h. Semiannual automatic compression force evaluations meet the limit of ~~>=~~ greater than or equal to 25 pounds (111 Newtons) and ~~<47 less than 45 pounds (209 200 Newtons); and~~
- i. Annually and whenever indicated for installation, major repairs, parts replacement, or as deemed necessary by a qualified expert when quality control test results indicate a survey is necessary; the survey shall include the following tests: automatic exposure control performance and thickness response; kVp accuracy and reproducibility; system resolution; breast entrance air kerma and automatic exposure control reproducibility; average glandular dose; x-ray field, light field and image receptor alignment; compression paddle alignment; uniformity of screen speed; system artifacts; radiation output; decompression; and beam quality and half value layer;
- j. For systems with image receptor modalities other than screen film, the quality assurance and quality control program shall meet or exceed the recommendations by the manufacturer; and
- k. Each registrant shall maintain records documenting the requirements in this subsection for three years from the date the requirement is met. The records shall be available for Agency inspection.

C. No change

1. No change

- a. An interpreting physician shall meet the requirements of 21 CFR 900.12(a)(1)(i) and (ii)(A) and (B), ~~2001 edition, published April 1, 2001, which is incorporated by reference, on file with the Agency, and contains no future editions or amendments~~ April 1, 2006, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments; or:
  - i. No change
  - ii. No change
  - iii. No change
  - iv. Have interpreted or reviewed an average of 300 mammograms per year during the preceding two years or have completed a radiology residency that included mammogram image interpretation; ~~and~~
  - v. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; ~~and~~
  - vi. Have received at least eight hours of training specific to each mammography modality prior to independent interpretation.
- b. A mammography technologist shall meet the requirements of 21 CFR 900.12(a)(2)(i)(B), (ii), and (iii), ~~2001 edition, published April 1, 2001, which is incorporated by reference, on file with the Agency, and contains no future editions or amendments~~ April 1, 2006, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments; or:
  - i. Possess a valid mammographic technologist certificate issued by the Medical Radiologic Technology Board of Examiners, as required in A.R.S. § 32-2841, or be pursuing mammography certification by training under the direct supervision of a technologist who possesses a valid mammographic certificate; ~~and~~
  - ii. Have performed at least 200 mammographic examinations in the preceding two years;
  - ~~ii-iii.~~ Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
  - iv. Have received at least eight hours of training specific to each mammographic modality to be used by the technologist in performing mammographic examinations.
- c. A radiologic physicist shall meet the requirements in 21 CFR 900.12(a)(3)(i) and (iii), and 21 CFR 900.12(a)(4), ~~2001 edition, published April 1, 2001, which is incorporated by reference and on file with the Agency, and contains no future editions or amendments~~ April 1, 2006, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments; or
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
  - v. Have, after completing the experience requirements in subsection (C)(1)(c)(iv), continuing experience surveying two mammography facilities and evaluating six mammography units during the preceding two years; ~~and~~
  - vi. Have completed 15 hours of continuing medical education credits in mammography during the three preced-

ing years;

vii. Have received at least eight hours of training specific to any modality surveyed; and

2. No change

D. No change

1. No change

2. No change

## ARTICLE 9. PARTICLE ACCELERATORS

### R12-1-902. Definitions

“Added filter” No change

“Arc therapy” No change

“Authorized medical physicist” means an individual who meets the requirements in R12-1-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist qualifies as a “qualified expert” as defined in Article 1.

“Beam-limiting device” No change

“Beam-monitoring system” No change

“Control panel” No change

“Full beam detector” No change

“Gantry” No change

“Interlock” No change

“Isocenter” No change

“Monitor unit” No change

“Moving beam therapy” No change

“Rotational beam therapy” No change

“Skip therapy” No change

“Spot check” No change

“Stationary beam therapy” No change

“Virtual source” No change

### R12-1-904. Registration of Particle Accelerators Used in the Practice of Medicine

A. No change

B. An applicant that is a “medical institution,” as defined in 12 A.A.C. 1, Article 7, and performing human research shall appoint a radiation safety committee, ~~meeting the requirements in R12-1-706.~~ that meets the following requirements:

1. A committee membership shall consist of at least three individuals and shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer. Other members may be included as the licensee deems appropriate;

2. A committee shall meet at least once in each 12 month period, unless otherwise specified by license condition;

3. To establish a quorum and to conduct business, half of the committee’s membership shall be present, including the Radiation Safety Officer and the management representative;

4. The minutes of each Radiation Safety Committee meeting shall include a reference to the review required in R12-1-407;

5. Review the radiation safety program for all sources of radiation as required in R12-1-407;

6. Establish a table of investigational levels for occupational public dose that, when exceeded, will initiate an investigation and consideration of actions by the Radiation Safety Officer; and

7. Establish the safety objectives of the quality management program required by subsection (E).

C. The applicant shall ensure that an individual designated as an authorized user ~~on the application~~ is an Arizona licensed physician; approved by the radiation safety committee, if applicable; and is:

1. No change

a. No change

b. No change

c. No change

d. No change

2. No change

- a. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
- b. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
  - v. No change
- c. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
- D. With the application the applicant shall provide the name of each authorized user to the Agency so the names can be listed on the registration form, and so that the Agency can determine if the authorized user's the training and experience that satisfies the requirements in subsection (C).
- E. Each registrant shall establish and maintain a written quality management program to provide high confidence the radiation produced by the particle accelerator will be administered as directed by an authorized user. The quality management program shall include ~~written policies and procedures to meet the specific patient safety objectives established by the Radiation Safety Officer or Radiation Safety Committee if applicable, and at minimum, contain a quality control program that addresses~~ at a minimum the tests and checks listed in Appendix A.
- F. Each registrant shall ensure that a particle accelerator ~~shall be~~ is calibrated by ~~a qualified expert~~ an authorized medical physicist meeting the training and experience qualifications in ~~R12-1-716(G)~~ R12-1-711.
- G. At the time of application for registration or when a therapy program is expanded to multiple sites, each applicant or registrant shall provide the Agency with a description of the quality management program, a listing of the professional staff assigned to the facility, and the expected ratio of patient workload to staff member for programs involving multiple therapy sites. If the staffing ratio exceeds the recommended levels in Radiation Oncology in Integrated Cancer Management, ~~1986 edition, published in November 1986, which is incorporated by reference, published by the Inter-Society Council for Radiation Therapy, and on file with the Agency, by the Inter-Society Council for Radiation Therapy, which is incorporated by reference and on file with the Agency,~~ the applicant shall provide to the Agency for approval the justification for the larger ratio and the safety considerations that have been addressed in establishing the program. This incorporation contains no future additions or amendments.

**R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks**

- A. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
  - 4. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
      - i. Maintains a reading until intentionally reset to  $\emptyset$  zero;
      - ii. No change

- iii. No change
- f. No change
- g. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
  - v. No change
- 5. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
    - i. No change
    - ii. No change
- 6. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
- 7. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
- 8. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
- 9. No change
  - a. No change
  - b. No change
  - c. No change
- 10. No change
- B. No change**
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
  - 2. ~~A qualified expert~~ An authorized medical physicist trained and experienced in the principles of radiation protection shall perform a radiation protection survey on all installations before human use and after any change in an installation that might produce a radiation hazard. The person shall provide the survey results in writing to the individual in charge of the installation and transmit a copy of the survey results to the Agency.
  - 3. No change
    - a. No change
    - b. No change
    - c. Calibration of a particle accelerator shall be performed by, or under the supervision of a person who meets the qualification requirements specified in ~~R12-1-716(G)~~ R12-1-711, and a copy of the calibration report shall be maintained by the registrant for inspection by the Agency
    - d. No change
      - i. No change



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- ii. No change
- iii. No change
- iv. No change
- v. No change
- e. Records of calibrations shall be maintained for ~~two~~ three years following the date the calibration was performed.
- f. No change
  - i. No change
  - ii. No change
  - iii. No change

C. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. Records of spot checks shall be maintained available for inspection by the Agency for two years following the spot check measurements. Records of spot checks not performed by ~~a qualified expert~~ an authorized medical physicist shall be signed by a qualified expert within 15 days of the spot check.

D. No change

- 1. No change
- 2. No change

**R12-1-907. Shielding and Safety Design**

- A. A person experienced in the principles of radiation protection and installation design shall be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation. The registrant shall provide a copy of the installation radiation survey to the Agency before an Agency inspection conducted according to ~~R12-1-904(G)~~ R12-1-914.

B. No change

- C. At the time of application and before treatment of the first patient, the registrant shall provide to the Agency a copy of the installation report signed by the contractor who installed the shielding material recommended by the authorized medical physicist who performed the shielding calculations for the particle accelerator facility.

- D. As part of the annual ALARA review required in R12-1-407, the registrant shall document a review of the patient workload and associated change, if any, in public exposure resulting from the installed facility shielding and other public radiation exposure controls in use at the time of the review.

**R12-1-910. Operating Procedures**

A. No change

B. No change

- C. A registrant shall ensure that all safety and warning systems, including interlocks, are tested for proper operation at intervals not to exceed three months, and maintain ~~results~~ a record of each test for Agency inspection for at least three years from the date of the test.

D. No change

- ~~E. By-pass of~~ A registrant shall not by-pass an interlock is prohibited unless the by-pass is:

- 1. No change
- 2. No change
- 3. No change

F. No change

**R12-1-911. Radiation Surveys**

A. No change

- ~~B. A person experienced in the principles of radiation protection and installation design~~ An authorized medical physicist shall:

- 1. No change
- 2. No change
- 3. No change
- 4. No change

C. No change

- 1. Radiation protection surveys required in subsection (B)(2), and the associated facility description, required in ~~R12-1-202(E)~~ R12-1-202(D), until the registration is terminated; and
- 2. No change

**R12-1-913. Misadministration**

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- A. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. ~~Records of misadministration shall be maintained according to R12-1-708(C).~~ Each registrant shall maintain records of all misadministrations for Agency inspection. The records shall:
    - a. Contain the names of all individuals involved in the event, including the physician, allied health personnel, the patient, and the patient's referring physician; the patient's identification number if one has been assigned; a brief description of the event; the effect on the patient; and the action taken to prevent recurrence.
    - b. Be maintained for three years beyond the termination date of the affected registration.

**Appendix A. Quality Control Program**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
- D. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- E. No change
  - 1. Each registrant shall use the services of a third party ~~qualified expert~~ authorized medical physicist or third party TLD system to verify the accelerator's radiation output every two years.
  - 2. No change
  - 3. No change
- F. No change
  - 1. No change
  - 2. No change

**ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT INCLUDING ANALYTICAL X-RAY SYSTEMS**

**R12-1-1142. Baggage and Package Inspection Systems**

- A. For x-ray systems designed to screen carry-on baggage at airlines, railroads, bus terminals, package inspection systems or similar facilities, a registrant shall ~~station the operator at the control area in a position that permits surveillance of the ports and doors during generation of x-radiation~~ ensure the x-ray system has a means to ensure operator presence at the control area in a position which permits surveillance of the ports and doors during generation of x-radiation to prevent exposure to passengers and other members of the public.
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change

**ARTICLE 12. ADMINISTRATIVE PROVISIONS**

**R12-1-1215. License and Registration Divisions**

- A. No change
1. No change
  2. No change
  3. Division III licenses and registrations:
    - Class A Laser Facility
    - Class A Industrial Radio-frequency Facility
    - ~~Depleted Uranium~~ General industrial
    - Gas Chromatograph
    - General Depleted Uranium
    - General Industrial
    - General Medical
    - General Veterinary Medicine
    - Health Physics Class B
    - Laboratory
    - Leak Detector
    - Limited Industrial
    - Medical Materials Class C
    - Other Ionizing Radiation Machine
    - Other Nonionizing Radiation Machine
    - Portable Gauge
    - Possession Only
    - Radioactive waste transfer-for-disposal
    - Unclassified
    - Veterinary Medicine
    - X-ray Machine Class C
- B. No change
- C. No change
- D. No change
1. No change
  2. No change
  3. No change
  4. No change

**ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION**

**R12-1-1401. Registration of Nonionizing Radiation Sources and Service Providers**

- A. No change

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- B. A person who possesses a nonexempt nonionizing source shall submit to the Agency an application for registration ~~at least 30 days before~~ within 30 days of its first use.
1. No change
  2. No change
  3. No change
- C. No change
- D. No change
- E. No change
- F. No change

ARTICLE 15. TRANSPORTATION

**R12-1-1502. Definitions**

Terms defined in Article 1 have the same meaning when used in this Article. Federal regulations incorporated by reference in this Article are on file at the Agency ~~and the Office of the Secretary of State~~.

**R12-1-1503. ~~Repealed~~ Transportation of Licensed Material**

Each licensee who transports licensed material outside the site of usage, as specified in an Agency license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the USDOT regulations listed in 10 CFR 71.5, January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

**R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials**

- A. No change
1. No change
  2. Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the requirements applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 180, October 1, ~~2003~~ 2006, which are incorporated by reference ~~and on file with the Agency, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency.~~ This incorporation by reference contains no future editions or amendments.
- B. No change
- C. No change

**R12-1-1505. Storage of Radioactive Material in Transport**

- A. No change
- B. A carrier shall not store a package that contains radioactive material with other hazardous materials, except as authorized by U.S. Department of Transportation regulations in 49 CFR 177.848, ~~2000 Edition, published October 1, 2000~~ 2006, incorporated by reference and on file with the Agency ~~and the Office of the Secretary of State~~, containing no future editions or amendments.
- C. No change
- D. No change
1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
    - h. No change
  2. No change
  3. No change

**R12-1-1506. Preparation of Radioactive Material for Transport**

A licensee shall not deliver any package that contains radioactive material to a carrier for transport or transport radioactive material, unless the licensee:

1. Complies with the packaging, monitoring, manifesting, marking, and labeling requirements, applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 180, October 1, ~~2003~~ 2006, or 39 CFR 111.1, July 1, ~~2003~~ 2006, both of which are incorporated by reference and on file with the Agency. This incorporation contains no future editions or amendments; and

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2. No change
3. No change
  - a. No change
  - b. No change

**R12-1-1507. Packaging Quality Assurance**

- A. A licensee that transports radioactive material in the course of business or delivers radioactive material to a carrier for transport in a package for which a license, certificate of compliance, or other approval has been issued by the Nuclear Regulatory Commission, or meets the applicable criteria specified in 10 CFR 71, ~~2001 Edition, published January 1, 2001, incorporated by reference and on file with the Agency and the Office of Secretary of State, shall have, maintain, Subpart H, January 1, 2007, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. The material incorporated by reference contains no future editions or amendments. A licensee shall have, maintain, and execute the quality assurance program specified in 10 CFR 71, Subpart H. This incorporation by reference contains no future editions or amendments.~~
- B. No change
- C. No change
- D. No change

**R12-1-1508. Advance Notification of Nuclear Waste Transportation**

- A. No change
- B. No change
  1. No change
  2. A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d), ~~2001 Edition, published October 1, 2001, 2006, incorporated by reference and on file with the Agency and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
  3. No change
  4. No change
  5. No change
  6. No change
- C. No change
- D. No change

**R12-1-1510. Packaging**

- A. A general license is hereby issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.
1. This general license applies only to a licensee who has a quality assurance program approved by the Agency as satisfying R12-1-1507;
  2. This general license applies only to a licensee who:
    - a. Has a copy of the certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
    - b. Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Article; and
    - c. Before the licensee's first use of the package, submits in writing to the Agency the licensee's name, license number, and the package identification number specified in the package approval.
  3. This general license applies only when the package approval authorizes use of the package under this general license.
  4. For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of subsection (B).
- B. Type B packages**
1. A Type B package previously approved by NRC but not designated as B(U) or B(M) in the identification number of the NRC Certificate of Compliance, may be used under the general license of subsection (A) with the following additional conditions:
    - a. Fabrication of the packaging was satisfactorily completed by August 31, 1986, as demonstrated by application of its model number in accordance with 10 CFR 71.85(c), January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments;
    - b. A package that is used for a shipment to a location outside the United States is multilaterally approved, as defined in 49 CFR 173.403; October 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Agency, and containing no future editions or amendments; and

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- c. A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.
  - 2. A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the designation “-85” in the identification number of the NRC certificate of compliance, may be used under the general license of subsection (A) with the following additional conditions:
    - a. Fabrication of the package is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 CFR 71.85(c); January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments;
    - b. A package used for a shipment to a location outside the United States is subject to multilateral approval as defined in 49 CFR 173.403; October 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Agency, and containing no future editions or amendments; and
    - c. A serial number which uniquely identifies each packaging which conforms to the approved design is assigned to and legibly and durably marked on the outside of each packaging.
  - 3. A licensee may modify the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided:
    - a. The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73; January 1, 2007, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Agency, and containing no future editions or amendments;
    - b. The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73; January 1, 2007, which are incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Agency, and contains no future editions or amendments; and
    - c. The modifications to the package satisfy the requirements of this Section.
  - 4. The NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as appropriate, and with the identification number suffix “-85” after receipt of an application demonstrating that the design meets the requirements of this Section.
  - 5. For purposes of this rule the different types of packages are defined in 10 CFR 71, January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- C. A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in 49 CFR 173 and 178 October 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
  - 1. The licensee shall maintain a quality assurance program approved by the Agency as satisfying R12-1-1507.
  - 2. The licensee operating under this general license:
    - a. Maintains a copy of the specification; and
    - b. Complies with the terms and conditions of the specification and the applicable requirements of Subparts A, G, and H of 10 CFR 71, January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
  - 3. The licensee operating under a general license authorized under this subsection may not use the specification container for a shipment to a location outside the United States, except by multilateral approval, as defined in 49 CFR 173.403, October 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- D. Foreign packaging
  - 1. A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by Federal Department of Transportation as meeting the applicable requirements of 49 CFR 171.12, October 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorpora-

- tion by reference contains no future editions or amendments.
2. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the Agency as satisfying the applicable provisions of R12-1-1507.
  3. This general license applies only to:
    - a. Shipments made to or from locations outside the United States.
    - b. A licensee who:
      - i. Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and
      - ii. Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements of Subparts A, G, and H of 10 CFR 71, January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments. With respect to the quality assurance provisions of Subpart H of this incorporation, the licensee is exempt from design, construction, and fabrication considerations.

**R12-1-1511. Air Transport of Plutonium**

- A.** Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Section or included indirectly by citation of 49 CFR, previously incorporated in this Article, as may be applicable, the licensee shall ensure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:
1. The plutonium is contained in a medical device designed for individual human application; or
  2. The plutonium is contained in a material in which the specific activity is not greater than 70 Bq/g (0.002  $\mu$ Ci/g) of material and in which the radioactivity is essentially uniformly distributed; or
  3. The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with R12-1-1504(A)(2) or
  4. The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the NRC.
- B.** Nothing in subsection (A) is to be interpreted as removing or diminishing the requirements of 10 CFR 73.24, January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.
- C.** For a shipment of plutonium by air which is subject to subsection (A)(4), the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, October 1, 2006, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency, applicable to the air transport of plutonium. This incorporation by reference contains no future editions or amendments.

**R12-1-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste**

A licensee shall provide advance notification to the Governor, or the Director of the Agency, of the shipment of licensed material as specified in 10 CFR 71.97, January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

**R12-1-1513. Reserved**

**R12-1-1514. Reserved**

**R12-1-1515. Exemption for Low-level Radioactive Materials**

A licensee is exempt from all the requirements of 10 CFR 71 with respect to shipment or carriage of the low-level materials listed in 10 CFR 71.14, January 1, 2007, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments.

**ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES**

**R12-1-1713. Transportation precautions**

Each licensee shall ensure that transport containers ~~shall be~~ are physically secured ~~to~~ in the transporting vehicle to prevent accidental movement, loss, tampering, or unauthorized removal.

**NOTICE OF PROPOSED RULEMAKING**

TITLE 19: ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3: ARIZONA STATE LOTTERY COMMISSION

[R07-49]

**PREAMBLE**

**1. Sections Affected:**

**Rulemaking Action**

R19-3-201	Renumber
R19-3-201	New Section
R19-3-202	Renumber
R19-3-202	Amend
R19-3-203	Renumber
R19-3-203	Amend
R19-3-204	Repeal
R19-3-204	Renumber
R19-3-204	Amend
R19-3-205	Amend
R19-3-206	Amend
R19-3-207	Amend
R19-3-208	Amend
R19-3-209	Amend
R19-3-210	New Section
R19-3-211	New Section
R19-3-212	New Section
R19-3-213	New Section
R19-3-214	New Section
R19-3-215	New Section
R19-3-216	New Section
R19-3-217	New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 5-504(B)

Specific statute: A.R.S. § 5-512

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 3815, October 13, 2006

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: J. Art Macias Jr., Executive Director

Address: Arizona State Lottery  
4740 E. University Dr.  
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: amacias@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona State Lottery  
4740 E. University Dr.  
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4488

E-mail: pdinunzio@azlottery.gov

**5. An explanation of the rules, including the agency's reason for initiating the rules:**



**Notices of Proposed Rulemaking**

Article 2, Retailers, prescribes the requirements and procedures for Arizona retail businesses to obtain a license to sell Lottery game products. The rules explain common retailer provisions such as: requirements for the sale and payment of Lottery games, retailer conduct including the revocation, suspension or renewal of retailer licenses, hearing procedures, stolen tickets procedures, and Lottery-conducted compliance investigations. These rules are being amended to update provisions as a result of the Lottery's new contract for on-line game services, and to provide greater consistency with agency operating procedures. This rulemaking also adds a definitions section, revises license fees, removes outdated and redundant terminology, and creates shorter sections to improve the understandability of the rules. These changes will help to make the rules a more usable reference document for Lottery retailers.

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Lottery studied its costs related to retailer licensing. The Lottery incurs a base cost, plus additional costs if the applicant has resided outside Arizona within the last 10 years or if the applicant is a corporation, limited liability company (LLC), partnership, or limited liability partnership (LLP). Licensing cost information is outlined in Table 1.

**TABLE 1  
Lottery Retailer Licensing Cost**

Admin Asst. Time (\$18.29/hr) • data entry	.5 hr	\$ 9.14
Investigator Time (\$22.49/hr) • review application • conduct background investigation	1 hr	\$22.49
Fingerprint Check Fee 1/		\$10.00
Credit Check Fee 2/		\$ 5.00
<b>TOTAL COST:</b>		<b>\$46.63</b>

1/ Cost to process fingerprint check for Arizona non-resident is additional \$29 per individual.

2/ Cost to process credit check for corporation, LLC, LLP, or partnership is additional \$22.

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The rules for Article 2, Retailers, describe various requirements and procedures for retail businesses to sell Lottery game products. The Lottery anticipates amendments to this Article will primarily impact the agency and Lottery retailers. Representatives from the retail community were included in reviewing the proposed rule changes.

**A. Arizona State Lottery.** Costs to the Lottery related to this rulemaking include background investigations for licensing, supplies and promotional items, ticket delivery, expenses to administer the on-line game network, and administrative costs associated with collecting sales revenue and providing customer service to retailers. These costs are included in the agency's appropriated budget, but in some instances, expenses have changed.

As part of this rulemaking, the Lottery proposes to increase the license fee to sell game products. A licensing investigation includes an Americans with Disabilities Act (ADA) onsite inspection, credit report, and fingerprint check for all prospective retailers. The Lottery's current licensing fee of \$36 was approved by G.R.R.C. in October 1998 and is no longer an accurate representation of costs. The Lottery studied its licensing costs (Table 1), and the average base cost to license a retailer is approximately \$45, as compared to the current fee of \$36. This base cost was determined by estimating the average time spent by Lottery staff to review the application and complete the background investigation. The Lottery incurs an additional fingerprint fee of \$29 for individuals who resided outside Arizona within the last 10 years and an additional credit check fee of \$22 for an applicant that does business as a corporation, limited liability company (LLC), partnership, or limited liability partnership (LLP). In an application where both incremental costs apply, the base fee only covers about 50% of actual costs. In FY06, the Lottery granted or renewed 485 licenses, of which 198 included additional non-resident fingerprint fees. The Lottery does not currently perform a significant number of credit checks on businesses that are classified as a corporation, LLC, LLP, or partnership, but this will likely change as the Lottery expands its retailer network. The proposed base fee, plus additional fees if applicable, will allow the Lottery to recoup actual costs incurred in the licensing process, while not penalizing retailers to which the costs do not apply.

The Lottery is adversely affected when licensed retailers do not notify the Lottery of a change in business ownership or business location in a timely manner. When either of these changes occurs, the Lottery must arrange to pick up remaining ticket stock, and sometimes, the Lottery sales terminal. This does not present a problem if the Lottery is notified within the prescribed time-frame of 10 business days. Otherwise, Lottery sales staff must make emergency

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*Arizona Administrative Register / Secretary of State*  
**Notices of Proposed Rulemaking**

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arrangements to perform these tasks. Because sales routes are scheduled in advance, this often results in additional, unplanned travel time for Lottery staff and may inconvenience retailers that have to be rescheduled to accommodate this last minute change. In an effort to encourage retailers to report a change of ownership or business location in a timely manner, retailers that do not report these changes within 10 business days may no longer receive credit for remaining activated partial packs of tickets as established in R19-3-211. Retailers may avoid this consequence by reporting the change to the Lottery within the prescribed time-frame of 10 business days, which is a reasonable amount of time to know of an impending change in ownership or business location.

The Lottery is repealing the provision whereby the Lottery may seek reimbursement for telecom line charges for retailers that do not meet minimum sales requirements. The Lottery previously incurred expenses for telephone line installation and monthly charges for each retailer selling on-line games. However, the Lottery's new contract for on-line game services, which was effective in September 2006, now incorporates all retailer-related telecom expenses. The Lottery no longer incurs these direct telecom costs, which will result in substantial budget savings of approximately \$2.2 million annually. Telecom expenses are now included with overhead costs the on-line game vendor incurs related to the overall contract, which is based on a percentage of on-line game sales. The Lottery will realize administrative savings by no longer having to continuously monitor underperforming retailers, review requests for waivers, or process telecommunications line charges for the small percentage of retailers this provision affects. The Lottery currently has 84 underperforming (low volume) retailers, which equates to about 3% of the total network of approximately 2600 retailers. The Lottery retains some lower volume retailers in certain areas within the state to ensure geographic coverage, and if these retailers are excluded, the percentage of low volume retailers decreases to less than 2% of the entire retailer network. The Lottery will still require minimum sales levels to retain a license as prescribed in R19-3-204(A)(4), but sales requirements and other guidelines will be provided to retailers annually in writing instead of being specified in rule. This will provide flexibility for the Lottery to structure minimum sales requirements that are realistic and reflect changing market conditions.

**B. *Businesses Directly Affected by this Rulemaking.*** Businesses impacted by these rules are existing Lottery retailers or retail establishments that choose to apply for a license to sell Lottery products. Overall, this rulemaking is expected to benefit Lottery retailers as discussed in the following specific rule amendments organized by category. Unless otherwise specified, the same impact is anticipated for small businesses (retailers).

**Licensing Process**

Retailers are no longer required to submit a list of references to obtain a Lottery license as repealed in R19-3-202(A)(1)(f). The Lottery uses technology to obtain the information necessary to determine financial stability, so this requirement no longer adds value to the process. In addition, the time-frame for having any state business license revoked or suspended as a licensing prerequisite has been reduced from 10 years to 1 year in R19-3-202(B)(2). Under current provisions, if a Lottery license is denied or revoked, the licensee can reapply in one year. The change will make both time-frames consistent. The amended provisions will simplify the licensing process for retailers.

The addition of R19-2-202(H)(2) provides for license renewal fees to be collected automatically through the retailer's checking account. Retailers are accustomed to this procedure since it is the same method used for weekly billings. This change will benefit retailers by simplifying the license renewal process and will not result in added costs to the agency. The change involves a minimal programming cost to the Lottery that will be offset by improved efficiency in processing license renewals.

As part of this rulemaking, Lottery retailers will incur a minimal fee increase to apply for a new license or renew an existing license. The base fee will be \$45 as established by this rulemaking. If applicable, applicants will incur an additional fingerprint fee of \$29 for individuals who have resided outside Arizona within the last 10 years and a background check fee of \$22 for an applicant that does business as a corporation, LLC, LLP, or partnership. The current license application fee of \$36 has been in place since 1998. The revised fees will allow the Lottery to recoup costs incurred in the licensing process, while only impacting those retailers to which the fees apply. In FY06, the Lottery issued 334 new retailer licenses, renewed 151 licenses, and collected approximately \$17,000 in license fees. The revised fees represent a minimal business cost to the retailer, which is far outweighed by commissions retailers earn. The Lottery has approximately 2600 total retailers. Retailers earn \$.065 per each \$1 transaction and are eligible for up to an additional one-half percent based on meeting performance criteria. In FY06, retailers earned over \$31 million in Lottery game commissions.

**Game Provisions**

This rulemaking removes the requirement for retailers to sell a minimum of four instant games. This requirement is no longer necessary since most retailers typically maintain an average of 16 different games and larger retailers carry 20-24 different games. The Lottery still retains authority under R19-3-213 with respect to sales of Lottery game products.

The rulemaking repeals the provision requiring retailers to return remaining instant tickets within 30 days after the announced end of the game. Lottery sales representatives currently perform this function and this change will make the rules consistent with procedure. In addition, the specific criteria for ending instant games have been repealed. Although the Lottery continues to use these criteria internally, the particular reason why a game ends is not relevant to the retailer and does not need to be detailed in rule. These changes are neutral with respect to economic impact.

Licensing Requirements

The requirement for a licensee to have validation and cashing functions operational a minimum of 14 hours each day is repealed. Some retailers cannot comply with this requirement due to limited business hours and the provision adds no value to the rules. Small Businesses: The elimination of this requirement will benefit small retailers that are more likely to have limited hours of operation.

This rulemaking repeals the requirement to display three different point-of-sale promotional materials. The Lottery has new multi-media display devices that are included as part of the new on-line services contract. This display terminal provides the capability to concentrate advertising and promotional messages at the point of sale, thereby eliminating the need for a specific retailer requirement in this regard. Retailers will benefit from the convenience the terminal offers and by no longer having to devote space for displaying three separate pieces of Lottery promotional materials. The Lottery benefits from greater control and consistency regarding promotional messages.

In R19-3-206, the provision for retailers to pay telephone line charges in lieu of meeting minimum sales requirements is repealed since this is no longer a direct cost for the Lottery. A retailer must continue to maintain minimum sales levels as determined by the Lottery to retain its Lottery license. However, these minimum sales requirements will be specified in writing and distributed annually to retailers, rather than detailed in rule. This provides flexibility to structure sales minimums that better reflect changing market conditions and will help to avoid situations where retailers are held accountable for meeting sales requirements that may no longer be relevant or practical. Eliminating the telecom provision does not impact the vast majority of retailers; low volume retailers represent a small percentage of the overall retailer network. These retailers only comprise about 3% of the Lottery's 2600 retailers and the figure drops to less than 2% if geographic exceptions are excluded. This compares to an average of 7% when tracking began in FY01. The decrease in low volume retailers was due to various factors including efforts to educate retailers about the best mix of products, expanding the number of games retailers carry, and the introduction of tickets at higher price points (\$3, \$5 and \$10 games). Removing the telecom provision is not expected to negatively impact the Lottery's on-line vendor, since all costs are presumed to have been factored into and reflected in the vendor's bid proposal. Due to economies of scale from managing the entire network, telecom costs to the vendor at the individual retailer level are minimal. Small Businesses: The overall impact on small businesses is expected to be positive. Although low volume retailers generally tend to be small retailers, repealing the provision to pay telecom costs will impact a minimal number of these retailers, as noted above. In addition, the related change of removing sales minimums in rule should benefit small retailers who may have had difficulty maintaining the previous set requirements. Providing sales minimums and guidelines to retailers annually gives the Lottery the ability to structure sales requirements that are consistent with current market conditions. The Lottery recognizes there is typically not one performance standard that fits all retailers. However, the Lottery must balance this against the objective of maintaining a cost-effective retailer network. The Lottery's intent is to enforce sales provisions equally for all retailers, but to the extent possible, the Lottery will provide additional resources to reduce the impact on small businesses as prescribed in A.R.S. § 41-1035. Lottery sales representatives can devote additional time to small retailers to facilitate sales growth and assist these retailers in meeting minimum sales requirements. In addition, technological advancements received as part of the Lottery's new on-line contract may assist these retailers in achieving higher sales levels. This includes new multi-media display devices that offer a venue for point-of-sale advertising, retailer management tools via a secure web site, and self-service customer ticket checkers.

Security Issues

The required length of time that a retailer must retain Lottery-related documents for compliance investigation purposes has been reduced from five years to three years in R19-3-207(C). This provides consistency with the time-frame for license renewals and with the Lottery's standard compliance investigation schedule. The Lottery's objective is to conduct a compliance investigation on each retailer once every two years, so the shortened retention requirement will not impact information necessary to perform these checks. Retailers will benefit by retaining records for a shorter period of time.

The amount a retailer may recover for ticket theft has changed from 50% to 100% of losses not paid by the retailer's insurance if the theft occurred by an unknown party. The Lottery will also reimburse 50% of losses caused by internal theft if the retailer complies with the provisions in R19-3-217. Retailers will benefit from receiving full reimbursement for losses that occurred through no fault of the retailer and from receiving partial reimbursement for theft that occurred internally. These reimbursement strategies are meant to encourage early reporting of theft, which enable the Lottery to prevent further economic losses that could occur if prizes are inadvertently paid on stolen tickets. In FY06, the Lottery had 109 reports of stolen tickets. Of the reported incidents, 84 were due to theft, six were burglaries, two were robberies, and 17 were due to internal/employee theft. Although internal/employee theft was a relatively low percentage of total reported incidents, it accounted for approximately 65% of retailer monetary losses. In many instances, Lottery investigative staff first note suspicious account activity and alert retailers to potential fraud long before the retailer is aware of a problem. The Lottery routinely provides loss prevention information and assistance to retailers in an effort to minimize losses due to theft, and retailers will not be reimbursed if the theft was caused by the retailer's negligence. This rulemaking also limits each retailer to no more than two stolen ticket requests within a 12-month period. This time-frame is consistent with the trigger level for insurance fraud and will serve to protect the Lottery's economic interest regarding fraudulent activity.

Notices of Proposed Rulemaking

**C. State Revenues.** Revenue generated from Lottery game sales and retailer license fees are deposited into the Lottery Fund and Lottery Prize Fund. In FY06, total game sales were \$468.7 million and approximately \$17,000 was collected in license fees. There may be a moderate increase in revenues due to the proposed increase in license fees; however, the fees only allow the Lottery to recover the cost of providing the service. The state will benefit from this provision, but not profit from it. A percentage of Lottery game revenue is returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-522. The Lottery returned over \$141 million to state beneficiaries in FY06.

This rulemaking will not have any identifiable economic impact on political subdivisions of the state, the general public, or private and public employment.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: J. Art Macias Jr., Executive Director

Address: Arizona state Lottery  
4740 E. University Dr.  
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: amacias@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona state Lottery  
4740 E. University Dr.  
Phoenix, AZ 85034

Telephone: (480) 921-4489

Fax: (480) 921-4488

E-mail: pdinunzio@azlottery.gov

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

Date: April 20, 2007

Time: 10:00 a.m.

Location: Arizona Lottery  
4740 E. University Dr.  
Phoenix, AZ 85034

Nature: Oral Proceeding

The close of record is 5:00 p.m. on April 19, 2007 for written comments and at the end of the oral proceeding for verbal comments.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 19: ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3: ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 2. RETAILERS**

Section

R19-3-201. Definitions

~~R19-3-201~~ R19-3-202. Retailer's Application and License

~~R19-3-202~~ R19-3-203. Direct Sales by Lottery

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~~R19-3-203~~ R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License

~~R19-3-204~~. Display of Point of sale and Promotional Material

~~R19-3-205~~. Instant Game Requirements Lottery-Issued Equipment

~~R19-3-206~~. On-line Game Requirements Retailer Training

~~R19-3-207~~. Compliance Investigations

~~R19-3-208~~. Penalties

~~R19-3-209~~. Notice and Service

~~R19-3-210~~. Reportable Events

~~R19-3-211~~. Change of Ownership or Business Location

~~R19-3-212~~. Retailer Compensation

~~R19-3-213~~. Ticket Sales to Players

~~R19-3-214~~. Payments to Lottery

~~R19-3-215~~. Prize Validation and Payment

~~R19-3-216~~. Distribution and Return of Instant Tickets

~~R19-3-217~~. Unaccounted and Stolen Instant Tickets

ARTICLE 2. RETAILERS

**R19-3-201. Definitions**

In this Article, unless the context otherwise requires:

1. "Act" means Title 5, Chapter 5, Article 1 of the Arizona Revised Statutes.
2. "Controlling agent" means a stockholder, director, officer, managerial employee, or other person directly or indirectly controlling or operating the retailer's business.
3. "Partial pack of tickets" means less than a complete pack of consecutively numbered and connected tickets. If a pack is broken into individual tickets, each individual ticket is considered a partial pack.
4. "Premises manager" means the contact representative for a specific business site.
5. "Retailer" means a licensed provider of sales and redemptions services for Lottery products.
6. "Ticket" means one or more Lottery game plays.
7. "Validation" means confirmation of a winning Lottery ticket by Lottery-issued equipment.

**~~R19-3-201~~ R19-3-202. Retailer's Application and License**

A. Application. A person interested in obtaining a license to sell ~~lottery~~ Lottery tickets shall:

1. Submit to the Director a verified application on forms prescribed by the Director containing the following information:
  - a. The ~~applicant~~ applicant's name, and if different, the trade name of the retailer's business premise, address of the physical location of the place of business, the mailing address if different, and phone number;
  - b. The applicant's current transaction privilege tax license number issued under A.R.S. § 42-5005 and federal taxpayer identification number issued by the Internal Revenue Service and recorded on Form W-9;
  - c. Certification that the applicant's business location complies with the Americans with Disabilities Act;
  - d. Marketing and sales information, ~~on the forms and in the manner specified on the forms provided by the Lottery;~~ sufficient for the Lottery to determine whether applicant is likely to be able to sell the minimum lottery tickets required by R19-3-203(A)(4). The information required includes the expected volume of expected sales, number of cash registers, hours of operation, products presently offered for sale, approximate average daily number of persons entering the applicant's business premises using at least 10 consecutive sample days within three months before the application date, and actual previous lottery sales history at that location or in comparable stores of the applicant, if any; daily volume of customers entering the place of business, and other information specified by the Lottery;
  - e. Evidence that the applicant's business products or services are not exclusively Lottery products or services concerning lotteries;
  - f. ~~Names, addresses, and phone numbers of three business references for the applicant;~~
  - ~~g.f.~~ Financial relationship and any outstanding debt with the state of Arizona, any of its political subdivisions, or the United States government;
  - ~~h.g.~~ Evidence that the applicant is financially solvent. The evidence may include any one of the following:
    - i. Equity or unencumbered assets in real estate or personal property, other than goodwill and intellectual property, in an amount of \$100,000 or more;
    - ii. Evidence the applicant has established business credit, has a record of meeting its business debts as they became due for the last three consecutive years, and does not have outstanding legal actions, judgments, or tax liens;
    - iii. Personal guarantee in writing of applicant's Lottery account signed by a guarantor and the guarantor's spouse, if community property is being used to guarantee the account, or by the guarantor only, if guarantor

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- provides proof that the guarantee is based on sole and separate property.
- ~~i-h.~~ Electronic Funds Transfer Authorization agreement showing a valid bank account number from which the Lottery will withdraw any amounts due; and
  - ~~j-i.~~ Name, case number, court designation, and type of action for any pending litigation or judgments for which the applicant may potentially be held financially responsible.
2. If the applicant does business as a sole proprietorship or partnership:
    - a. The name, home address, and home phone number of each owner or ~~partner~~ partner, including spouse if community property owner ~~owner~~, unless applicant provides proof that the business is sole property separate from the community;
    - b. Written authorization and tax identification number for the business entity and ~~social security~~ Social Security number of each applicant in order to obtain a credit search from a credit reporting agency; and
    - c. A completed authorized fingerprint card for the ~~licensee~~ applicant. If any general partner is a corporation, a fingerprint card is required under subsection (A)(4).
  3. If the applicant does business as a limited liability partnership ("LLP") or a limited liability company ("LLC"):
    - a. The name, home address, and home phone number of each partner or member;
    - b. Written authorization and tax identification number ~~for the business entity~~ to perform a credit search; and
    - c. A completed authorized fingerprint card for each partner or member.
  4. If the applicant does business as a corporation:
    - a. The name, corporate address, and corporate phone number of each officer and director, and the name, home address and home phone number of the responsible local manager ~~and who is the~~ contact representative for the applicant's corporate location in Arizona;
    - b. Written authorization and tax identification number to perform a credit search; and
    - c. A completed authorized fingerprint card for the appropriate responsible local manager ~~who is the contact representative for the applicant's corporate location in Arizona~~.
  5. If the Lottery licenses an applicant under subsection ~~(A)(1)(h)(iii)~~ (A)(1)(g)(iii), the guarantor shall provide a written authorization to perform a credit search. If the guarantee is based on community property, the guarantor and guarantor's spouse shall provide written authorization for the Lottery to perform a credit search.
  6. Submit an application fee of ~~\$36.00~~ \$45.00 and the following fees, if applicable: If the applicant is a business with more than one current licensed location, the application fee for the new location shall be pro-rated at \$1.00 per month from the application date until the date the other licenses are due for renewal under R19-3-201(I)(2)(c):
    - a. If any individual listed on the personal questionnaire has resided outside the state of Arizona within the last 10 years, a fingerprint fee of \$29 per individual.
    - b. If the applicant does business as a corporation, limited liability company, limited liability partnership, or a partnership, a credit check fee of \$22.
  7. If the applicant is a business with more than one current licensed location, the application fee for the new location shall be pro-rated at \$1.25 per month from the application date until the date the other licenses are due for renewal under R19-3-202(H)(2)(c).
- B. Prerequisites to obtain or renew a license.
1. Evidence that the applicant is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines that the person has committed any act which, if committed ~~or done~~ by a Lottery-licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona;
  2. An applicant, a director or officer of a corporation, or member of a limited liability company, shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last ~~10 years~~ 12 months;
  3. An applicant, a director or officer of a corporation, or member of a limited liability company, shall not have had a Lottery license denied or revoked at the address and location of the applicant's place of business for reasons other than ADA ~~non-compliance~~ noncompliance, and shall not have sold Lottery products without being licensed within one year of the person's date of application;
  4. The applicant shall have demonstrated financial solvency based on the information provided in the application, credit search, or pending litigation, if any, or tax liens, if ~~any~~; any.
  5. ~~Applicant demonstrates either sufficient average daily sales, as defined in R19-3-201(A)(1)(d), or the applicant presents evidence of a retailer with the same type of business with a similar population base that meets or exceeds the required minimum sale of Lottery tickets.~~
- C. The Lottery shall not issue a license to an applicant if any of the following applies:
1. The applicant is a minor, a partnership or LLP in which one of the partners is a minor, an LLC in which one of the members is a minor, or a corporation in which a corporate officer, director, or manager of Lottery sales is a minor;
  2. The organization is a ~~sexually-oriented~~ sexually oriented business as defined in A.R.S. § 13-1422 or displays sexually explicit material in violation of A.R.S. § 13-3507; or
  3. The applicant provides deferred presentment services defined in A.R.S. § 6-1251.

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- D.** Residency requirement. To obtain a license, an applicant shall be one of the following:
1. A resident of Arizona;
  2. A corporation incorporated in Arizona or authorized to do business in Arizona;
  3. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona;
  4. A partnership in which at least one of the general partners resides in Arizona; or
  5. A limited liability partnership in which at least one of the partners resides in Arizona.
- E.** Time-frame for licensure.
1. The Director shall finish an administrative completeness review within 15 days from the date of receipt of the application and fee prescribed in subsection (A).
    - a. The Director shall issue a notice of administrative completeness to the applicant if no deficiencies are found in the application.
    - b. If the application is incomplete or the fee is not submitted, the Director shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for completion of the administrative completeness review is suspended from the date the notice of incompleteness is sent until the applicant provides the Director with all missing information.
    - c. If the Director does not provide the applicant with notice regarding administrative completeness, the application shall be deemed complete 15 days after receipt by the Director.
  2. An applicant with an incomplete application shall submit all of the missing information within 20 days of service of the notice of incompleteness.
  3. If an applicant fails to submit a complete application within the time allowed, the Director shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to this Section.
  4. From the date on which the administrative completeness review of an application is finished, the Director shall complete a substantive review of the applicant's qualifications in no more than 75 days.
    - a. If an applicant is found to be ineligible, the Director shall issue a written notice of denial to the applicant.
    - b. If an applicant is found to be eligible, the Director shall issue a license to the applicant permitting the applicant to engage in business as a Lottery retailer under the terms of this Chapter.
    - c. If the Director finds deficiencies during the substantive review of an application, the Director shall issue a written request to the applicant for additional information.
    - d. The 75-day time-frame for substantive review is suspended from the date of a written request for additional information until the date that all information is received.
    - e. If the applicant and the Director mutually agree in writing, the 75-day substantive review time-frame may be extended once for no more than 18 days.
  5. For the purpose of A.R.S. § 41-1072 et seq., the Director establishes the time-frames for a license to sell Lottery tickets:
    - a. Administrative completeness review time-frame: 15 days.
    - b. Substantive review time-frame: 75 days.
    - c. Overall time-frame: 90 days.
  6. If the Director does not provide the applicant with written notice granting or denying a license within the overall time-frame, the Director shall refund the applicant's application fee within 30 days after the expiration of the overall time-frame or the time-frame extension.
- ~~**F.** A Lottery licensee shall sell only the type of Lottery product authorized by the Lottery.~~
- ~~1. The Director may license a qualified applicant to sell any one or any combination of the Lottery's game products.~~
  - ~~2. The Director may require a licensee to sell a minimum of four instant games with different game numbers. The Director may exempt a licensee from selling four different instant games if the licensee shows three consecutive months of double the minimum sales requirement in R19-3-203(A)(4)(a).~~
  - ~~3. The Director may require a licensee to sell instant tickets as a condition of selling on-line tickets or shares.~~
- ~~**G.F.** Display of license and point-of-sale material.~~
- ~~1. A license issued under this Chapter shall be signed by the Director or the Director's designated representative. A licensee retailer shall post the license or a copy of the license held by the licensee retailer in a conspicuous place on the premises where the licensee retailer sells lottery Lottery products. A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-203.~~
  - ~~2. A retailer shall prominently display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, and the Authorized Retailer Notice.~~
  - ~~3. A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-204.~~
- ~~**H.G.** As a condition of licensure, each licensee retailer shall agree to release, indemnify, defend, and hold harmless, the Arizona Lottery, its directors, officers, and employees, from and against any and all liability, damage, cost, claim, loss, or expense, including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising by reason of loss of use, temporary or permanent cessation of Lottery equipment, or terminal operations. This should not be con-~~

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strued in any way to affect the rights of the licensee retailer to recover for losses caused by any third party.

**I.H.** Duration and renewal of license.

1. A license issued under this Chapter shall expire three years from the license issuance date by operation of law.
2. A licensee retailer may renew a license to sell Lottery tickets by submitting to the Director a verified application for renewal of the current license on forms prescribed by the Director containing the information required in ~~R19-3-201(A), (B), and (D)~~, accompanied by the required \$36.00 fee R19-3-202(A), (B), and (D). By filing an application for renewal, the retailer authorizes the Lottery to collect a \$45 renewal fee by an electronic transfer of funds from the bank account from which the Lottery regularly bills the retailer.
  - a. An application for renewal of a ~~lottery~~ Lottery license received by the Director or deposited in the United States mail postage prepaid on or before the renewal date, shall authorize the licensee retailer to operate as a retailer until actual issuance of the renewal license.
  - b. The Director may refuse to renew a license according to the provisions of ~~R19-3-203~~ R19-3-204.
  - c. A licensee retailer holding more than one license may elect to renew all licenses on the same date. If more than one license is renewed under this subsection, the application fee shall be pro-rated at ~~\$1.00~~ \$1.25 per month from the license expiration date until the next renewal date of the other licenses held by the same licensee retailer.
3. A license issued under this Chapter that has expired by operation of law for failure to renew may be activated and renewed within one year of its expiration by filing the required application of renewal and payment of the application renewal fee provided for in this Chapter. If a license has been suspended for one or more years for failure to renew, a new application for license must be made and a new license issued according to this Chapter.
4. A license issued under this Chapter is subject to termination by the Director according to the provisions of this Chapter before the expiration date.

**J.** ~~Reportable Events. A licensee shall report the following events to the Lottery in writing at least 15 days before the event or as otherwise specified in this Section:~~

1. ~~Change in business location;~~
2. ~~Sale of ownership of the business;~~
3. ~~Death of a licensee within 15 days after the death occurs;~~
4. ~~Addition or removal of a partner in a partnership or a limited liability partnership;~~
5. ~~Substantial change in ownership of a non-public corporation with unencumbered assets of less than \$100,000 by a transfer of stock (equity) that removes a 10% or more shareholder or adds a 10% or more shareholder of a corporation;~~
6. ~~Merger or acquisition of the licensed entity;~~
7. ~~Addition or removal of a member in a limited liability company;~~
8. ~~Addition or removal of a controlling agent or designated corporate contact representative;~~
9. ~~Divorce or legal separation action filed by an individual licensee or licensee's spouse, if the licensed entity is a sole proprietorship or a partnership;~~
10. ~~Licensee or guarantor becomes insolvent;~~
11. ~~Licensee or guarantor files bankruptcy;~~
12. ~~Licensee is sued for a monetary judgment;~~
13. ~~Change in bank account from which the Lottery's electronic funds transfers are made;~~
14. ~~Change in mailing address or phone number of licensee or guarantor; or~~
15. ~~The applicant, a director or officer of a corporation, or a member of a limited liability company is charged with a felony, felony theft designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling.~~

**K.** ~~Change of Ownership or Business Location. A license is not assignable or transferable. A license authorizes the entity described in the application to sell Lottery tickets only at the specific premise stated on the license.~~

1. ~~If there is a change of ownership, business location, or for changes listed in subsections (J)(1) through (J)(7), the licensee shall:~~
  - a. ~~Surrender the license to the Director on the date of the event;~~
  - b. ~~Not sell any additional Lottery tickets;~~
  - c. ~~Not allow the sale of Lottery products under a subcontract.~~
2. ~~The new owner shall apply for a license according to R19-3-201.~~

**~~R19-3-202~~R19-3-203.** Direct Sales by Lottery

The Lottery may sell Lottery tickets at its main office, any branch it establishes in the state, or any promotional event.

**~~R19-3-203~~R19-3-204.** Revocation, Suspension, or Renewal Denial of Retailer's License

**A.** A retailer's license may be revoked, suspended, or denied renewal by the Director for any of the following reasons:

1. The licensee retailer violates a provision of the laws of the state of Arizona, the United States, or the regulations of the ~~Arizona Lottery Commission~~, which could be punished by jail time or imprisonment, revocation or suspension of a Lottery license, or involves moral turpitude;



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2. The licensee retailer offers to sell a Lottery ticket, sells a Lottery ticket or pays a prize on any winning Lottery ticket to a person younger than 21 years old;
  3. The licensee retailer sells a Lottery ticket to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase the Lottery ticket or sells a Lottery ticket to a person during the same transaction in which the person uses a public assistance voucher issued by any public entity or an electronic benefits card issued by the Department of Economic Security to purchase any goods in addition to the Lottery ticket;
  4. ~~The licensee's average weekly sales of tickets for:~~
    - a. ~~Instant games are less than \$250 per week for the preceding quarterly period; and~~
    - b. ~~On-line games are less than \$400 per week for the preceding quarterly period; or~~
    - e. ~~Instant games and on-line games combined are less than \$650 per week for the preceding quarterly period;~~The retailer does not meet the minimum sales requirements and follow the guidelines specified in writing by the Director. The Lottery shall provide minimum sales requirements and guidelines to each retailer annually. The Lottery may also post this information on the Lottery's web site for review. The minimum sales requirements and guidelines shall include:
    - a. The formula used to determine the minimum sales requirements and guidelines for the specified time period;
    - b. Resources available to assist retailers in achieving minimum sales requirements and guidelines; and
    - c. The process the Lottery will initiate if a retailer fails to achieve the minimum sales requirements or follow the specified guidelines.
  5. The licensee retailer commits an act that impairs the ~~licensee's~~ retailer's reputation for honesty and integrity;
  6. The licensee retailer does not make purchase or redemption of Lottery tickets convenient and readily accessible to the public;
  7. The licensee retailer provides to the Lottery a statement, representation, warranty, or certificate that the Lottery determines is false, incorrect, incomplete, or omits relevant information;
  8. ~~The licensee has~~ retailer's actions cause two payments to be returned to the Lottery for insufficient funds in a 12-month period ~~that is caused by the retailer's actions;~~
  9. The licensee retailer becomes insolvent, unable or unwilling to pay debts, or is declared bankrupt;
  10. ~~The licensee or an officer or retailer, or an officer,~~ controlling agent, or local manager of the licensee retailer:
    - a. Is convicted of a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, or a crime involving gambling or fraudulent schemes and artifices; or
    - b. Is the subject of a civil order, judgment, or decree of a federal or state authority for misrepresentation, consumer fraud, or any other fraud;
  11. Facts are discovered which, if known at the time the Lottery retailer's license was issued or renewed, would have been grounds to deny licensure;
  12. The licensee retailer adds a minor as an owner, partner, or officer of the business;
  13. The licensee retailer or an officer or employee of the ~~licensee retailer~~ sells a ticket or pays a prize to oneself, to any entity either wholly owned or partially owned by the licensee retailer, or any entity with 10 percent or more of the same shareholders, partners, or members as the licensee retailer;
  14. The licensee retailer or an officer or employee of the licensee retailer sells ~~or exchanges~~ any Lottery product for consideration other than U.S. currency, check, credit card, debit card or, if a player requests, the exchange of a winning Lottery ticket;
  15. The licensee retailer or an officer or employee of the licensee retailer sells a Lottery ticket by telephone, mail, fax, on the Internet, or on premises other than the one listed on the Lottery retailer's license;
  16. The licensee retailer or an officer or employee of the licensee retailer sells an altered Lottery ticket, an expired Lottery ticket, or a Lottery ticket after the announced end of the game;
  17. The licensee retailer fails to display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, Authorized Retailer ~~deal~~ Notice, or license;
  18. The licensee retailer fails to report a change event defined in ~~R19-3-201(J)~~ R19-3-210; or
  19. The licensee retailer fails to ~~implement loss prevention procedures required in writing by the Lottery within 30 days of notice~~ comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations.
- B. The Director may on the Director's own motion, and shall on an allegation of a violation of a provision of the laws of the state of Arizona, the regulations of the Arizona Lottery, or the written complaint of any person, investigate an act of a licensee retailer within 30 days after receiving the information. The Director may temporarily suspend a license under an emergency action, and impose specific conditions on a licensee retailer during the suspension and commence an action to permanently revoke a license issued under this Article if the licensee retailer is found to have committed an act or omission listed in subsection (A).
- C. The Lottery shall mail or hand-deliver a notice of action to the licensee retailer to suspend or revoke a license. Written notice to the licensee retailer is effective notice if it is sent or hand-delivered to the address in the application or the last address provided under ~~R19-3-201(J)~~ R19-3-210.

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D. Emergency action.

1. The Director may ~~turn off~~ disable a retailer's on-line terminal and suspend sales of Lottery tickets if the public welfare is threatened pending a proceeding for revocation, suspension, or denial of renewal, in the following circumstances:
  - a. The ~~licensee's~~ retailer's bank account has insufficient funds when the Lottery's regularly-scheduled scheduled electronic transfer of the ~~licensee's~~ retailer's account is returned by the bank as insufficient funds or closed account and the ~~licensee~~ retailer does not immediately pay the insufficiency;
  - b. The ~~licensee~~ retailer fails to ~~implement loss prevention procedures required in writing by the Lottery within 30 days of notice~~ comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations;
  - c. The ~~licensee~~ retailer, corporate officer, director, partner, LLC member, or ~~location~~ premises manager is charged with a ~~felony or felony, felony theft that is designated as a misdemeanor~~, misdemeanor theft, ~~embezzlement~~, or a crime involving gambling or fraudulent schemes and artifices.
2. A ~~licensee~~ retailer who receives a Notice of Intent to Revoke a Retailer's License with a finding of emergency action shall:
  - a. Immediately cease all sales of Lottery products, and
  - b. Surrender the retailer's license and all other Lottery property and products upon request by the Director's representative.
3. If the ~~licensee~~ retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take steps allowed by law to secure payment and return of Lottery products and property.
4. The Director shall notify the retailer in writing within five days of taking an emergency action that an expedited hearing or informal conference may be obtained before the Office of Administrative Hearings under R2-19-103 and R2-19-110.

E. Procedure for hearings. A ~~licensee~~ retailer may request a hearing before the Office of Administrative Hearings regarding a revocation, suspension, or license denial. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.

F. Procedure for filing an appeal of a final administrative decision:

1. An appeal to the Lottery Commission is deemed an optional motion for rehearing.
  - a. A Notice of Appeal to the Lottery Commission shall be filed within 10 days of receipt of the final administrative decision. The Notice shall contain:
    - i. A copy of the Director's final administrative decision; and
    - ii. The alleged factual or legal error in the final administrative decision from which the appeal is taken.
  - b. A person appealing the decision of the Director may file a written brief stating the position on the appeal within 30 days after receipt of the decision being appealed.
  - c. The Lottery may file a response brief within 15 days after receipt of the appellant's brief.
  - d. The Commission may rule based on the written briefs, or if requested, may provide for oral argument.
  - e. The Commission shall make its ruling on the appeal on the record.
  - f. A final decision of the Lottery Commission is subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
2. A decision of the Director accepting, modifying, or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.

G. Revocation of a retailer's license.

1. A ~~licensee~~ retailer who receives a notice of the final administrative decision revoking the retailer's license shall:
  - a. Immediately cease all sales of Lottery products, and
  - b. Surrender the license and all other Lottery property and products upon request of the Director's representative.
2. If the ~~licensee~~ retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take all steps allowed by law to secure payment and the return of Lottery products and property.

**~~R19-3-204. Display of Point of sale and Promotional Material~~**

- ~~A. Each licensee shall prominently display and maintain a minimum of three different point of sale promotional materials approved or provided by the Lottery.~~
- ~~B. A licensee shall prominently display the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, and the Authorized Retailer decal.~~

**~~R19-3-205. Instant Game Requirements~~ Lottery-Issued Equipment**

- ~~A. Distribution, return, and billing of instant tickets. The Lottery or its authorized representative shall distribute instant game tickets, accept returned instant game tickets, and bill instant game tickets sold to licensees as follows:~~
- ~~1. Distribute to each licensee the quantity of tickets on which the Lottery and the licensee agree, based on the licensee's anticipated volume of sales.~~

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2. Bill for instant ticket packs issued to a licensee 45 days after a pack is activated or after 85% of winning tickets in the pack are validated, whichever occurs first.
  3. Initiate collection of full packs and partial packs of tickets in a licensee's possession when a game ends.
  4. Credit to the licensee, in the billing period following the receipt of the Lottery authorized returned tickets, the net dollar value of any unopened full packs and partial packs of tickets the Lottery receives from the licensee not more than 30 days after the announced end of game.
  5. Collect full and partial packs of tickets during a game if the Lottery and the licensee determine that the licensee's sales for a specific game are minimal.
- B.** The Lottery shall announce, within three working days of the Director's written approval, the end of an instant game. The Director shall end an instant game when:
1. The last top prize has been claimed;
  2. There is an actual or perceived threat to the game's integrity or security;
  3. A particular percentage of the game's inventory has been invoiced;
  4. The designated sales period has expired; or
  5. At the discretion of the Director.
- C.** A licensee shall pay for instant game ticket sales in the following manner:
1. Pay to the Lottery each Friday, by an electronic transfer of funds, the amount due from the sale of its instant game Lottery tickets for the seven-day period ending at the close of business on the previous Saturday. The amount due is the licensee's instant game tickets calculated according to subsection (A)(2) minus any promotion tickets, returned tickets, prize winnings paid out by the licensee, the licensee's sales commission and plus or minus any accounting or prize adjustments.
  2. A licensee shall deposit funds in a timely manner into a bank account from which an electronic transfer will be made to the Lottery.
    - a. The licensee shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred; and
    - b. The licensee shall notify the Lottery of any bank account changes 15 days before the effective date of the change.
  3. If a licensee's payment is returned to the Lottery for insufficient funds or any other reason, the licensee shall deliver a certified check, cashier's check, or money order or make a direct deposit to the Lottery's bank account within 24 hours of notification. Additionally, if the licensee's payment is returned to the Lottery,
    - a. The Director may require the licensee to pay the amount due in the form of a cashier's check, money order, sight draft or certified check at the time of each future delivery of tickets;
    - b. The Director may require the payment of each future delivery of tickets upon activation;
    - c. The Director may inactivate the licensee's instant ticket validation terminal;
    - d. The Director may pick up the licensee's current inventory of tickets and withhold further delivery of tickets; and
    - e. The Director may revoke, suspend, or deny renewal of the licensee's license according to R19-3-203(A).
- D.** Ticket prize validation and payment requirements. A licensee shall provide prize winner validation and payment services to any Lottery claimant regardless of where a winning ticket was purchased. A licensee may pay all winner prizes, up to and including \$599, provided that the ticket is validated as specified in R19-3-705. The licensee shall pay all winner prizes, up to and including \$100, if the ticket is validated as specified in R19-3-705. Winner prizes may be paid by cash, business check, money order, or if the prize winner requests, by Lottery tickets.
- E.A.** A licensee retailer shall only sell or validate instant tickets Lottery products using its authorized instant validation terminal authorized Lottery-issued equipment in accordance with the Act and this Chapter.
1. Instant validation terminal Equipment location. A retailer shall:
    - a. A licensee shall locate the instant validation terminal Locate the equipment at a site approved by the Lottery within the licensee's retailer's place of business. ~~The licensee and~~ shall not move the terminal equipment from that site without prior approval from the Lottery.
    - b. A licensee shall ensure that the electrical service ~~and data communication services to the terminal to the equipment~~ location are is installed according to the specifications established by the Lottery. The ~~licensee~~ retailer shall timely pay monthly charges for the electrical ~~and telephone services~~ service.
  2. Instant validation terminal Equipment conversion.
    - a. If the Lottery ~~modifies~~ deems it necessary, the Lottery shall modify its on-line or instant gaming system, ~~it may~~ by:
      - i. ~~Change terminals, equipment,~~ Changing equipment or accessories; or
      - ii. ~~Convert~~ Converting to another on-line or instant gaming system.
    - b. A ~~licensee~~ retailer shall assist the Lottery to the extent reasonable and practicable to accomplish a modification of the on-line or instant gaming system in a timely and economical fashion.
  3. Instant validation terminal operation. A licensee shall have its instant validation terminal available for the validation and cashing of instant game Lottery tickets at a minimum of 14 continuous hours each day if the Lottery's system is active and the licensee's business is open.

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- 4.3. The Lottery shall not be liable for damages of any kind due to interruption or failure of any Lottery-issued equipment ~~instant validation terminal interruption or termination of validation terminal operations.~~
- 5.4. ~~Instant validation terminal~~ Equipment care. A licensee retailer shall at all times:
- Operate the ~~instant validation terminal, associated equipment,~~ Lottery-issued equipment and accessories only in the ordinary course of its ~~instant game~~ Lottery business and only according to the requirements established by the Lottery; and
  - Exercise diligence and care to prevent failures and malfunctions of, and ~~accidents~~ damage to the ~~terminal equip-~~ ment and other property of the Lottery, or property of ~~on-line and instant game~~ Lottery contractors.
- 6.5. ~~Instant validation terminal~~ Equipment maintenance. A licensee retailer shall:
- Maintain the ~~instant validation terminal, associated equipment,~~ Lottery-issued equipment and accessories in a ~~clean, orderly, and good~~ clean and orderly condition;
  - Replace ribbons and paper stock in the ~~instant validation terminal~~ equipment as necessary; and
  - Minimize ~~terminal~~ equipment downtime by:
    - Notifying the Lottery or its ~~on-line or instant game~~ contractor immediately of any ~~terminal~~ equipment failure, malfunction, damage, or accident; and
    - Making the ~~terminal~~ equipment available for repair, adjustment, or replacement at all times during the licensee's retailer's regular business hours.
- 7.6. ~~Instant validation terminal~~ Equipment supplies. A licensee retailer shall:
- Order and use ~~terminal~~ equipment supplies exclusively from the Lottery or its designated contractor. The Lottery shall furnish ~~validation terminal~~ equipment supplies, at no cost, to the licensee retailer; and
  - Maintain a sufficient inventory of ~~validation terminal~~ Lottery equipment supplies ~~to avoid an out-of-stock situation.~~
8. Licensee training. A licensee shall:
- Participate in training provided by the Lottery in the operation of instant validation terminals and sale of Lottery products, which may take place at a licensee's place of business;
  - Ensure that all employees selling Lottery products or operating Lottery instant validation terminals are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment;
  - Be responsible for:
    - Any compensation payable to employees for participation in Lottery training courses and instruction; and
    - All other costs associated with employee training; and
  - Provide all employees operating Lottery equipment with copies of the procedures manuals, bulletins, and technical materials furnished to the licensee by the Lottery or its contractors.
- ~~F. Licensee's compensation. The Lottery shall pay a licensee a commission of six and one-half percent of the price of each instant lottery ticket it sells. The Lottery shall not pay a licensee a commission on sales transactions that are prohibited by any state or federal statute or rule.~~
- ~~G. Instant ticket sales.~~
- The money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (C).
  - The licensee shall sell instant game tickets in numeric order starting with ticket 000.
  - All instant game ticket sales are final and the Lottery will not accept ticket returns except as prescribed in subsection (A)(3).
  - The retailer shall not sell an instant game ticket after the announced end of game.
- ~~H. In addition to the compensation specified in subsection (F), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold to licensees who meet specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.~~
- ~~I. Unaccounted and stolen tickets.~~
- Tickets unaccounted for by a licensee shall be the property of the licensee.
  - The licensee shall report stolen tickets to the local law enforcement agency within one hour of the theft or when discovered. In addition, the licensee shall report the theft by telephone to the Lottery's Security Division within one-half hour of law enforcement notification and provide the Lottery with a copy of the written police report. The licensee shall cooperate in any investigation and prosecution of the theft.
    - The licensee's insurance is the loss payee. If there is insufficient insurance to pay for the licensee's loss, the Lottery shall issue credit for stolen tickets that have been activated for sale. The credit shall be in an amount equal to 50% of the licensee's purchase price for the instant tickets less any third-party reimbursement. The Lottery shall not credit instant tickets reported as stolen that are in an "issued to retailer" status because the tickets are not activated for sale and are not billed to the retailer. The licensee shall sign an affidavit stating that the listed tickets were stolen and whether a claim for reimbursement is being or will be made with a third party for the amount covered by the available Arizona Lottery credit. If the licensee obtains reimbursement for the stolen tickets from

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a source other than the Lottery, the Lottery credit will be reduced by the amount of the third-party reimbursement.

- b. ~~The Lottery shall not issue a credit for stolen tickets if the Lottery finds the licensee was negligent or did not enforce reasonable loss prevention procedures to protect tickets, ticket processing, and ticket accounting.~~
- e. ~~Each licensee location is limited to no more than two stolen ticket credit requests within any 36 month period.~~
- 3. ~~If the claimed ticket for a prize is reported stolen or unaccounted for by a licensee, the Lottery shall hold the prize money in escrow pending the findings of an investigation by an appropriate law enforcement agency.~~

**~~J.B.~~** A licensee retailer may sell instant tickets using its authorized instant ticket Lottery product vending machine according to in accordance with the Act and this Chapter.

- 1. A licensee retailer shall establish safeguards to ensure that instant ticket Lottery product vending machines are not operated by persons under the legal age to purchase Lottery tickets.
- 2. The instant ticket Lottery product vending machine shall be placed in an area of the store that:
  - a. Is visible to store personnel and other customers players; and
  - b. Is easily accessible to players.
- 3. The licensee retailer shall maintain an adequate supply of instant tickets in all bins to minimize out of stock conditions.

**R19-3-206. On-line Game Requirements Retailer Training**

**A.** Ticket sales requirements. Money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (M). A licensee selling on-line Lottery games shall issue on-line Lottery tickets using its authorized terminal according to the Act and this Chapter.

- 1. ~~If a licensee accepts a returned ticket from a player or generates a ticket that is refused by the player and the licensee does not resell the ticket, the Lottery shall deem the ticket to be owned by the licensee.~~
- 2. ~~A licensee shall not sell a ticket or combination of tickets to any person or entity that could guarantee the purchaser a win.~~
- 3. ~~A licensee shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.~~
- 4. ~~A licensee shall not devote more than 15 consecutive minutes of sales to a purchase by any single player if other customers are waiting to make a purchase.~~
- 5. ~~A licensee shall not permit the use of facsimiles or copies of selection slips, or other materials that are inserted into a terminal's selection slip reader that are not printed or approved by the Lottery. Plays may be entered manually only by using the Lottery terminal keypad or touch screen or by using a selection slip provided by the Lottery and hand-marked by the player.~~

**B.** Ticket prize validation and payment requirements. A licensee shall provide prize winner validation and payment services to any Lottery claimant regardless of where the ticket was purchased. If the ticket validation criteria in R19-3-406 and R19-3-407 are satisfied and a proper validation ticket is issued by the terminal, the licensee may pay a winner prize, up to and including \$599. A licensee shall pay all winner prizes up to and including \$100. Winner prizes may be paid by cash, business check, money order, or if the prize winner requests, by Lottery tickets.

**C.** Terminal location.

- 1. ~~A licensee shall locate an on-line Lottery terminal at a site approved by the Lottery within the licensee's place of business and shall not move the terminal from that site without prior approval from the Lottery.~~
- 2. ~~A licensee shall ensure that the electrical service and data communication services to the terminal location are installed according to the specifications established by the Lottery. The licensee shall timely pay monthly charges for the electrical services. The Lottery may assess the licensee for monthly data communication charges if licensee sales of Lottery products are less than the required minimums established in R19-3-203.~~
- 3. ~~If any action by the licensee makes it necessary to correct or relocate data communication service after the terminal is initially installed, the licensee shall pay for the associated costs incurred. The Lottery shall provide to the licensee a statement of costs and a copy of the data communication bill associated with the costs.~~

**D.** Terminal conversion.

- 1. ~~If the Lottery deems it necessary, the Lottery shall modify its on-line Lottery system by:~~
  - a. ~~Changing terminals, equipment, or accessories; or~~
  - b. ~~Converting to another on-line system.~~
- 2. ~~A licensee shall assist the Lottery to the extent reasonable and practical to accomplish a modification of the on-line Lottery system in a timely and economical fashion.~~

**E.** Terminal operation. A licensee shall have its on-line Lottery terminal available for the sale, validation, cancellation, and cashing of on-line Lottery tickets at a minimum of 14 continuous hours each day if the Lottery's on-line system is active and the licensee's business is open.

**F.** The Arizona Lottery shall not be liable for damages of any kind due to failure of any on-line lottery terminal interruption or termination of on-line terminal operations.

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- G.** ~~Terminal care. A licensee shall at all times:~~
- ~~1. Operate the on-line terminal, associated equipment, and accessories only in the ordinary course of its on-line Lottery business and only according to the requirements established by the Lottery; and~~
  - ~~2. Exercise diligence and care to prevent failures and malfunctions of, and accidents to the terminal and other property of the Lottery or property of on-line contractors.~~
- H.** ~~Terminal maintenance. A licensee shall:~~
- ~~1. Maintain the on-line Lottery terminal, associated equipment, and accessories clean, orderly, and in good condition;~~
  - ~~2. Replace ribbons and ticket stock in the terminal as necessary; and~~
  - ~~3. Minimize terminal downtime by:~~
    - ~~a. Notifying the Lottery or its on-line contractor immediately of any terminal failure, malfunction, damage, or accident; and~~
    - ~~b. Making the terminal available for repair, adjustment, or replacement at all times during the licensee's regular business hours.~~
- I.** ~~Terminal supplies. A licensee shall:~~
- ~~1. Order and use on-line Lottery supplies, including but not limited to, ribbons, ticket stock, and selection slips exclusively from the Lottery or its designated contractor. The Lottery shall furnish on-line supplies, at no cost, to the retailer; and~~
  - ~~2. Maintain a sufficient inventory of on-line Lottery supplies to avoid an out of stock situation.~~
- J.** ~~Licensee training. A licensee shall:~~
- ~~1-A. Participate A retailer shall participate in training provided by the Lottery in the operation of on-line terminals Lottery equipment and sale of Lottery products, which may take place at a licensee's retailer's place of business; business.~~
  - ~~2-B. Ensure A retailer shall ensure that all employees selling Lottery products or operating Lottery on-line terminals equipment are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment; equipment.~~
  - ~~3-C. Be A retailer shall be responsible for:~~
    - ~~a-1. Any compensation payable to employees for participation in Lottery training courses and instruction; and~~
    - ~~b-2. All other costs associated with employee training; and training.~~
  - ~~4-D. Provide A retailer shall provide all employees operating on-line Lottery equipment with copies of the procedures manuals, bulletins, and technical materials furnished to the licensee retailer by the Lottery or its on-line contractor contractors.~~
- K.** ~~Licensee compensation. The Lottery shall pay a licensee a commission of six and one-half percent of the price of each on-line ticket it sells. The Lottery shall not pay a licensee a commission on sales transactions that are prohibited by any state or federal statute or rule.~~
- L.** ~~In addition to the compensation specified in subsection (K), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold to a licensee who meet specifications established in writing by the Director. The written specifications shall be provided to the licensee before the incentive program begins.~~
- M.** ~~A licensee shall pay for on-line ticket sales in the following manner:~~
- ~~1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of its on-line Lottery tickets for the seven-day period ending at the close of business on the previous Saturday. The amount due means the retailer's gross on-line sales revenue, minus any promotion tickets, prize winnings paid out by the licensee, the licensee's sales commission and plus or minus any accounting or prize adjustments.~~
  - ~~2. The licensee shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery:~~
    - ~~a. The licensee shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred; and~~
    - ~~b. The licensee shall notify the Lottery of any bank account changes 15 days before the effective date of the change.~~
  - ~~3. If a licensee's payment is returned to the Lottery for insufficient funds or any other reason, the licensee shall deliver a certified check, cashier's check, or money order, or make a direct deposit to the Lottery's bank account within 24 hours of notification. Additionally, if the licensee's payment is returned to the Lottery:~~
    - ~~a. The Director may summarily inactivate the licensee's on-line Lottery terminal; and~~
    - ~~b. The Director may revoke, suspend, or deny renewal of the licensee's license according to R19-3-203.~~

**R19-3-207. Compliance Investigations**

- A.** A licensee retailer shall comply with all provisions of the Act and this Chapter. The Lottery may conduct inspections to verify compliance and, if necessary, order an audit or investigation of the business for verification.
- B.** A licensee retailer shall allow investigations during the licensee's retailer's regular business hours by authorized Lottery investigators to determine whether the licensee retailer is complying with the provisions of the Act and this Chapter.
- C.** A licensee retailer shall keep all invoices, records, bills and other papers and documents relating to the purchase, sale, and validation of Lottery products that are kept in the normal course of business for tax purposes for ~~five~~ three years. These

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records and papers shall be easily accessible to the Lottery-authorized investigator for examination or audit. The licensee retailer may use non-paper types of storage, such as microfiche and the licensee retailer may store records at a central location.

**R19-3-208. Penalties**

- A. The Director shall assess a civil penalty against a licensee retailer for any of the following acts of the licensee retailer:
1. Offering to sell or selling a lottery Lottery ticket or share to any person who is less under than 21 years of age;
  2. Selling a lottery Lottery ticket or share to a person who uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase the ticket or share; or
  3. Selling a lottery Lottery ticket or share during the same transaction in which a person uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase any goods in addition to the lottery Lottery ticket or share.
- B. The Director shall on the written complaint of any person, and shall upon receipt of information indicating that a licensee retailer has committed an act listed in subsection (A), investigate an act of the licensee retailer listed in subsection (A). The Director shall give notice to the licensee retailer as provided in A.R.S. §§ 41-1092.03 and 41-1092.04 of imposition of a civil penalty if the Director finds that the retailer has committed an act listed in subsection (A). The civil penalty for an act listed in subsection (A) is:
1. In an amount up to \$300 for the first violation within a 12-month period;
  2. In an amount more than \$300 and up to \$500 for the second violation within a 12-month period; and
  3. In an amount more than \$500 and up to \$1,000 for the third violation within a 12-month period.
- C. A licensee retailer against whom a penalty is assessed shall pay the penalty to the Lottery by the 31st day after the licensee retailer receives notice of imposition of the civil penalty, if the licensee retailer does not request a hearing as provided in subsection (D).
- D. A licensee retailer may request a hearing regarding imposition of a civil penalty. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- E. A decision of the Director accepting, modifying or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
1. If the licensee retailer decides not to seek judicial review of the Director's final administrative decision, the licensee retailer shall pay the civil penalty to the Lottery by the 36th day after the licensee retailer receives the Director's decision.
  2. If the licensee retailer decides to seek judicial review of the Director's final administrative decision, the licensee retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the Superior Court's decision.
  3. If the licensee retailer decides to appeal the Superior Court's decision, the licensee retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the decision on appeal.
  4. A licensee retailer shall pay interest at the rate provided in A.R.S. § 44-1201 from the date final judgment assessing a civil penalty is entered until satisfaction of the judgment.

**R19-3-209. Notice and Service**

Service shall be deemed made by the Lottery for any notice, decision, order, subpoena, or other process when the document or a copy is delivered to the licensee retailer, guarantor, or the attorney of record, or is deposited as certified mail in the United States Postal Service, addressed to the licensee retailer or guarantor at the address listed on the application for license or as noticed as a change event under R19-3-201(J) R19-3-210.

**R19-3-210. Reportable Events**

A retailer shall report the following events to the Lottery in writing at least 10 business days before the event or as otherwise specified in this Section:

1. Change in business location;
2. Sale of ownership of the business;
3. Death of a licensed retailer within 10 business days after the death occurs;
4. Addition or removal of a partner in a partnership or a limited liability partnership;
5. Substantial change in ownership of a non-public corporation with unencumbered assets of less than \$100,000 by a transfer of stock (equity) that removes a shareholder that holds 10% or more of a corporation or adds a shareholder that holds 10% or more of a corporation;
6. Merger or acquisition of the licensed entity;
7. Addition or removal of a member in a limited liability company;
8. Addition or removal of a controlling agent or designated corporate contact representative;
9. Divorce or legal separation action filed by an individual retailer or retailer's spouse, if the licensed entity is a sole proprietorship or a partnership;
10. Retailer or guarantor becomes insolvent;

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11. Retailer or guarantor files bankruptcy;
12. Retailer is sued for a monetary judgment;
13. Change in bank account from which the Lottery's electronic funds transfers are made;
14. Change in mailing address or phone number of retailer or guarantor; or
15. The applicant, a director or officer of a corporation, a member of a limited liability company, or a local manager is charged with a felony, felony theft designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling.

**R19-3-211. Change of Ownership or Business Location**

A license is not assignable or transferable. A license authorizes the entity described in the application to sell Lottery tickets only at the specific premise stated on the license.

1. If there is a change of ownership, business location, or for changes listed in R19-3-210(1) through R19-3-210(7), the retailer shall:
  - a. Surrender the license to the Director on the date of the event;
  - b. Not sell any additional Lottery tickets;
  - c. Not allow the sale of Lottery products under a subcontract.
2. If the retailer does not notify the Lottery of a change in ownership or business location at least 10 business days before the change, the retailer may not receive credit for any activated partial packs of tickets.
3. The new owner shall apply for a license according to R19-3-202.

**R19-3-212. Retailer Compensation**

- A.** The Lottery shall pay a retailer a commission of six and one-half percent of the price of each Lottery ticket sold. The Lottery shall not pay a retailer a commission on sales transactions that are prohibited by any state or federal statute or rule.
- B.** In addition to the compensation specified in subsection (A), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold to a retailer who meets specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.

**R19-3-213. Ticket Sales to Players**

- A.** A Lottery retailer shall sell only the type of Lottery product authorized by the Lottery.
  1. The Director may require a retailer to sell any one or any combination of Lottery game products.
  2. The Director may require a retailer to sell instant tickets as a condition of selling on-line tickets.
- B.** A retailer shall only sell or validate Lottery products using authorized Lottery-issued equipment in accordance with the Act and this Chapter.
- C.** Other than informing a player of publicly available game odds, a retailer shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.
- D.** On-line tickets.
  1. All on-line ticket sales are final. If a retailer accepts a returned on-line ticket from a player or generates an on-line ticket that is refused by the player and the retailer does not resell the ticket, the Lottery shall deem the on-line ticket to be owned by the retailer.
  2. A retailer shall not devote more than 15 consecutive minutes of sales to an on-line game purchase by any single player if other customers are waiting to make a purchase.
  3. A retailer shall not permit the use of facsimiles or copies of selection slips, or other materials that are not printed or approved by the Lottery. Plays may be entered by using the Lottery equipment touch screen or by using a selection slip provided by the Lottery and hand-marked by the player.
- E.** Instant tickets.
  1. All instant ticket sales are final.
  2. The retailer shall sell instant tickets within each pack in sequential order.
  3. The retailer shall not sell an instant ticket after the announced end of game.

**R19-3-214. Payments to Lottery**

- A.** Money collected from the sale of Lottery tickets are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (B).
- B.** A retailer shall pay for ticket sales in the following manner:
  1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of its Lottery tickets for the seven-day period ending at the close of business on the previous Saturday.
  2. The amount due for on-line tickets means the retailer's gross on-line sales revenue, minus any promotional tickets, prize winnings paid out by the retailer, the retailer's sales commission and plus or minus any accounting or prize adjustments.
  3. The amount due for instant tickets is based on billing for instant ticket packs issued to a retailer with billing occurring 45 days after a pack is activated, or after 85% of winning tickets in the pack are validated, whichever occurs first.



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minus any promotional tickets, returned tickets, prize winnings paid out by the retailer, the retailer's sales commission and plus or minus any accounting or prize adjustments.

4. The retailer shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery.
  - a. The retailer shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred; and
  - b. The retailer shall notify the Lottery of any bank account changes within 10 business days before the effective date of the change.
5. If a retailer's payment is returned to the Lottery for any reason, the retailer shall deliver a certified check, cashier's check, or money order, or make a direct deposit for the amount due to the Lottery's bank account within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery:
  - a. The Director may require that the retailer's Lottery equipment be disabled;
  - b. The Director may revoke, suspend, or deny renewal of the retailer's license according to R19-3-204;
  - c. The Director may require the payment for instant tickets upon pack activation; and
  - d. The Director may require the return of the retailer's current inventory of instant tickets and suspend further delivery of instant tickets.

**R19-3-215. Prize Validation and Payment**

- A. A retailer shall provide prize winner validation and payment services to any Lottery claimant regardless of where the ticket was purchased.
- B. A retailer shall pay all winning prizes up to and including \$100 and may pay all winning prizes up to and including \$599. A winning instant ticket shall satisfy the validation criteria in R19-3-705 and R19-3-706 and have a proper validation receipt issued by the terminal. A winning on-line ticket must satisfy the validation criteria in R19-3-406 and R19-3-407 and have a proper validation receipt issued by the terminal.
- C. Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.

**R19-3-216. Distribution and Return of Instant Tickets**

The Lottery or its authorized representative shall distribute instant tickets and accept returned instant tickets as follows:

1. Distribute to each retailer the quantity of tickets on which the Lottery and the retailer agree, based on the retailer's anticipated volume of sales.
2. Collect full and partial packs of tickets during a game if the Lottery and the retailer determine that the retailer's sales for a specific game are minimal.
3. Collect full and partial packs of tickets when a game is ended. The Lottery shall announce the ending date of a game and communicate this information to all retailers in a timely manner.
4. Credit to the retailer, in the billing period following the receipt of the Lottery-authorized returned tickets, the net dollar value of any unopened full packs and partial packs of tickets.

**R19-3-217. Unaccounted and Stolen Tickets**

- A. All Lottery tickets issued to a retailer shall be the property of the retailer until their return is acknowledged by the Lottery.
- B. The retailer shall report stolen lottery tickets to the local law enforcement agency and the Lottery Investigations unit within one hour from the time the theft occurs or the theft first could have been discovered.
  1. The retailer shall provide a copy of the written police report to the Lottery.
  2. The retailer shall cooperate in any investigation and prosecution of the theft.
  3. The retailer shall sign an affidavit providing the details as known by the retailer.
  4. The retailer shall maintain and report current game, pack, and ticket inventory.
- C. After sustaining a loss from stolen tickets, the retailer's insurance is the loss payee.
- D. If there is insufficient insurance to pay for the retailer's loss and the retailer complies with subsection (B), the Lottery will credit the retailers account for instant tickets that are stolen as follows:
  1. The Lottery shall credit all charges against the retailer's account for the stolen tickets if the Lottery determines that the theft was from a source not associated with the retailer or by an unknown party.
  2. The Lottery shall credit 50% of the charges against the retailer's account for the stolen tickets if the Lottery determines that the theft was from an employee, manager, officer, director or a relative with access to Lottery tickets.
  3. Each retailer is limited to no more than two stolen ticket credit requests within any 12-month period.
- E. The Lottery shall not issue a credit for stolen tickets if the Lottery finds that the retailer was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing, and ticket accounting.
- F. If a prize claim is made against a ticket that has been reported as stolen or a ticket unaccounted for by the retailer, the Lottery shall hold the prize money in trust pending the findings of an investigation by an appropriate law enforcement agency.